SPEECH OF HON. E. D. BAKER,

OF OREGON,

Delivered in the Senate of the United States, January 2d, and 3d, 1861,

UPON THE SECESSION QUESTION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 48) introduced by Mr. JOHNSON, of Tennessee, proposing amendments to the Constitution of the United States.

Mr. BAKER. Mr. President, the adventurous traveler who wanders on the slopes of the Pacific, and on the very verge of civilization, stands awe struck and astonished in that great chasm formed by the torrent of the Columbia, rushing between Mount Hood and Mount St. Helen's, it breaks through the ridges of the Cascade mountains to find the sea. Nor is his wonder lessened when he hears his slightest tone repeated and re-echoed with a larger utterance in reverberations that lose themselves at last amid the surrounding and distant hills. So I, standing on this spot, and speaking for the first time in this Chamber, reflect with astonishment that my feeblest word is re-echoed, even while I speak, to the confines of the Republic. I trust, sir, that in so speaking, in the midst of such an auditory, and in the presence of great events, I may remember all the responsibility these impose upon me to perform my duty to the Constitution of the United States, which I have sworn to support, and to be in no wise forgetful to the whole country, of which I am a devoted and affectionate son.

It is my purpose to reply, as I may, to the speech of the honorable and distinguished Senator from the State of Louisiana. I do so because it is, in my judgment at least, the ablest speech which I have heard, perhaps the ablest I shall hear, upon that side of the question, and in that view of the subject; because it is respectful in tone and elevated in manner; and because, while it will be my fortune to differ from him upon many, nay, most of the points to which he has addressed himself, it is not, I trust, inappropriate for me to say that much of what he has said, and the manner in which he has said it, has tended to increase the personal respect—nay, I may say the admiration—which I have learned to feel for him. And yet, sir, while I say this, I am reminded of the saying of a great man—Dr. Johnson, I believe—who, when he was asked for his critical opinion upon a book just then published, and which was making a great sensation in London, said: "Sir, the fellow who has written that, has done very well what nobody ought ever to do at all."

The entire object of the speech is, as I understand it, to offer a philosophical and constitutional disquisition to prove that the Government of these United States is, in point of fact, no Government at all; that it has no principle of vitality; that it is to be overturned by a touch; dwindled into insignificance by a doubt; dissolved by a breath; not by maladministration merely, but in consequence of organic defects, interwoven with its very existence.

But, sir, this purpose—strange and mournful in anybody, still more so in him—this purpose has a terrible significance now and here. In the judgment of the honorable Senator, the Union is this day dissolved; it is broken and disintegrated; civil war is a consequence at once necessary and inevitable. Standing in the Senate Chamber, he speaks like a prophet of woe. The burden of the prediction is the echo of what the distinguished gentleman now presiding in that chair has said before—[Mr. IVERSON in the chair] —"Too late! too late!" The gleaming and lurid lights of war flash around his brow, even while he speaks. And, sir, if it were not for the exquisite amenity of his tone and manner, we could easily persuade ourselves that we saw the flashing of the armor of the soldier beneath the robe of the Senator.

My purpose is far different; sir, I think it is far higher. I desire to contribute my poor argument to maintain the dignity, the honor of the Government under which I live, and beneath whose august shadow I hope to die. I propose, in opposition to all that has been said, to show that the Government of the United States is in very deed a real, substantial Power, ordained by the people, not dependent upon States;

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sovereign in its sphere; a Union, and not a compact between sovereign States; that according to its true theory, it has the inherent capacity of self-protection; that its Constitution is a perpetuity, beneficent, unfailing, grand; and that its powers are equally capable of exercise against the domestic treason and against foreign foes. Such, sir, is the main purpose of my speech; and what I may say additional to this, will be drawn from me in reply to the speech to which I propose now to address myself.

Sir, the argument of the honorable Senator from Louisiana is addressed first—I will not say mainly—to establish the proposition that the State of South Carolina, having, as he says, seceded, has seceded from this Union rightfully; and, sir, just here he says one thing, at least, which meets my hearty approval and acquiescence. He says he does not deem it—such is the substance of the remark—unwise or improper to argue the right of the case even now and here. In this I agree with him most heartily. Right and duty are always majestic ideas. They march an invisible guard in the van of all true progress; they animate the loftiest spirit in the public assemblies; they nerve the arm of the warrior; they kindle the soul of the statesman, and the imagination of the poet; they sweeten every reward; they console every defeat. Sir, they are of themselves an indissoluble chain, which binds feeble, erring humanity to the eternal throne of God. I meet the discussion in that spirit. I defer to that authority.

I observe, sir, first, that the argument of the gentleman, from beginning to end, is based upon the assumption that the Constitution of the United States is a compact between sovereign States. I think I in no sense misapprehend it; I am sure such cannot be my desire. I understand him, throughout the whole tone of his speech, to maintain that proposition—I repeat it—that the Constitution of the United States is a compact between sovereign States. Arguing from thence, he arrives at the conclusion that, being so, a compact, when broken by either of the other States, or by the General Government, the creature of the Constitution, South Carolina or Louisiana may treat the compact as broken, the contract as recinded; may withdraw peacefully from the Union, and resume her original condition.

I remark next, that this proposition is in no wise new; and perhaps for that, as it is a constitutional proposition, it is all the better; and again, the argument by which the honorable Senator seeks to maintain it is in no wise new in any of its parts. I have examined with some care the arguments hitherto made by great men, the echoes of whose eloquence yet linger under this dome; and I find that the proposition, the argument, the authority, the illustration, are but a repetition of the famous discussion led off by Mr. Calhoun, and growing out of the attempt of South Carolina to do before what she says she has done now.

If the proposition is not new, and if the arguments are not strange, it will not be wonderful if the replies partake of the like character. I deny, as Mr. Webster denied; I deny, as Mr. Madison denied; I deny, as General Jackson denied, that this Union is a compact between sovereign States at all; and so denying, I meet just here the authorities which the honorable gentleman has chosen to quote. They are substantially, as follows: first, not the Constitution itself, (and that is remarkable;) second, not the arguments made by the great expounders of the Constitution directly upon this question, and on this floor; but mainly fugitive expressions, sometimes hasty, not always considered, upon propositions not germane to the controversy now engaging us to-day; and when made, if misapprehended, corrected again and again in after years. To illustrate; the gentleman from Louisiana has quoted at considerable length from the debates in the convention which formed the Federal Constitution; he has quoted the opinions of Mr. Madison; and to those who have not looked into the question, it might appear as if those opinions were really in support of his proposition that this is a compact between sovereign States. Now, sir, to show that that is in no sense so, I will read, as a reply to the entire quotations of the opinions of Mr. Madison, what Mr. Madison himself said upon that subject upon the fullest consideration in the world. I proceed to read what I suppose to be at once argument and authority upon that question—I read the letter of Mr. Madison to Mr. Webster, dated March 15, 1833.

Mr. TRUMBULL read, as follows:

MONTPELIER, March 15, 1833.

MY DEAR SIR: I return my thanks for the copy of your late very powerful speech in the Senate of the United States. It crushes "nullification," and must hasten an abandonment of "secession." But this dodges the blow, by confounding the claim to secede at will with the right of seceding from intolerable oppression. The former answers itself, being a violation without cause of a faith solemnly

pledged The latter is another name only for revolution, about which there is no theoretic controversy. Its double aspect, nevertheless, with the countenance received from certain quarters, is giving it a popular currency here which may influence the approaching elections both for Congress and for the State Legislature. It has gained some advantage, also, by mixing itself with the question whether the Constitution of the United States was formed by the people or by the States, now under a theoretic discussion by animated partisans.

It is fortunate when disputed theories can be decided by undisputed facts; and here the undisputed fact is, that the Constitution was made by the people, but as embodied into the several States who were parties to it, and, therefore, made by the States in their highest authoritative capacity. They might, by the same authority and by the same process, have converted the Confederacy into a mere league or treaty, or continued it with enlarged or abridged powers, or have embodied the people of their respective States into one people, nation, or sovereignty; or, as they did, by a mixed form, making them one people, nation, or sovereignty for certain purposes, and not so for others.

The Constitution of the United States, being established by a competent authority, by that of the sovereign people of the several States who were parties to it, it remains only to inquire what the constitution is; and here it speaks for itself It organizes a government into the usual legislative, executive, and judiciary departments; it invests it with specified powers, leaving others to the parties to the Constitution. It makes the government, like other governments, to operate directly on the people; places at its command the needful physical means of executing its powers; and, finally, proclaims its supremacy, and that of the laws made in pursuance of it, over the constitutions and laws of the States, the powers of the government being exercised, as in other elective and responsible governments, under the control of its constituents, the people and the Legislatures of the States, and subject to the revolutionary rights of the people, in extreme cases.

Such is the Constitution of the United States *de jure* and *de facto*, and the name, whatever it be, that may be given to it can make it nothing more or less than what it is.

Pardon this hasty effusion, which, whether precisely according or not with your ideas, presents, I am aware, none that will be new to you.

With great esteem and cordial salutations,

JAMES MADISON.

To Mr. WEBSTER.

Mr. BAKER. Mr. President, I submit to the candor of the Senator from Louisiana that that is distinct, positive, unequivocal authority to show that so far as the opinions of Mr. Madison were concerned, he did not believe that the Constitution of the United States was a compact between sovereign States; but that he did believe it was a form of Government ordained by the people of the United States.

Again: Mr. Webster is quoted. I expected, when I heard Mr. Webster named, to find that the honorable Senator would allude to the great discussion which his genius has rendered immortal. He does not do that; but refers specifically to a passage of Mr. Webster's in an argument in the Supreme Court, I believe, upon a question arising as to boundary between Massachusetts and Rhode Island.

Mr. BENJAMIN. If the Senator will permit me, he is mistaken. The question that arose there was in relation to the power of the people of Rhode Island to constitute a new government, not a question of boundary. I allude to his argument in the celebrated Dorr controversy.

Mr. BAKER. I feel obliged to the Senator for his correction; and I beg leave to say that the mistake perhaps is not a very unnatural one in me, living so many thousand miles away; for, really, Rhode Island, though very patriotic, is so very small that I do not quite keep up with her history as I ought. It is no sort of difference whether Mr. Webster made the speech on a boundary question or on a rebellion question; the speech was made. My criticism upon the quotation is this: it has no relation whatever to the controversy now here, or if it has, it is so remote and indistinct that it becomes him and me alike to refer to what Mr. Webster really did say directly upon the controversy itself. Now I take the liberty of reading Mr. Webster's views as expressed and condensed by himself. I read from Mr. Webster's works, volume three, page 464:

"And now, sir, against all these theories and opinions, I maintain—

"1. That the Constitution of the United States is not a league, confederacy, or compact between the people of the several States in their sovereign capacities; but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

"2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that consequently there can be no such thing as secession without revolution.

"3 That there is a supreme law, consisting of the Constitution of the United States, and acts of Congress passed in pursuance of it, and treaties; and that in cases not capable of assuming the character of the suit in law or equity, Congress must judge of and finally interpret, this supreme law so often as it has occasion to pass acts of legislation; and in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United Staes is the final interpreter."

Now, I submit again to the candor of the honorable and distinguished gentleman that there is the positive, unmistakable evidence of Mr. Webster, so far as his own opinion goes, that this is not, according to his proposition, a compact between sovereign States; but it is a Government made and ordained by the people of the whole United States; a Government capable of acting directly upon individuals, and made by individuals. And, sir, it is remarkable that these propositions of Mr. Webster grew out of his desire to contradict the affirmative propositions of Mr. Calhoun, upon which the debate grew up. I read them:

"The first two resolutions of the honorable member, [says Mr. Webster,] affirm these propositions, namely:"—

And they are propositions sought to be enforced by the distinguished Senator from Louisiana:—

"1. That the political system under which we live, and under which Congress is now assembled, is a compact, to which the people of the several States, as separate and sovereign communities, are the parties.

"2. That these sovereign parties have a right to judge, each for itself, of any alleged violation of the Constitution by Congress, and in case of such violation, to choose, each for itself, its own mode and measure of redress."

There, sir, is the right of secession upon the one hand, or at least of nullification; and I may say here, once for all, the difference between nullification and secession is just this: secession bears the same relation to nullification that biography bears to history, somebody having wittily said that history was biography with its brains knocked out. I understand that nullification is just secession with its brains knocked out; and every argument applying to the one applies to the other. So much for the second authority upon which the distinguished Senator from Louisiana relies.

I now come to the third; and I trust he will allow me to correct for him what I know was an oversight, or at least an entire misapprehension. The honorable gentleman from Louisiana, during the course of his speech, remarked, as I remember it, that a valued friend had placed in his hands a paper from which he read, purporting to be the opinion of John Quincy Adams, upon this question of the right of a State to secede. I did not understand him as reading from a manuscript of his own copy, but from a paper placed in his hands, and perhaps about the moment, by somebody else.

Mr. BENJAMIN. So far as that is concerned, the paper that I read from was sent to me as I read it, from a valued friend from New York. As to the speech of Mr. Adams, of course I cannot tell anything about it; I have never seen it.

Mr. BAKER. The reason why I say this it is proper to state here. It is a remarkable fact, that of all the passages ever written by John Quincy Adams, of all the passages ever written by anybody from the beginning of the world, that passage, taken altogether, part of which was read by the honorable Senator from Louisiana, is the passage, of all others, which maintains the doctrine of the oneness of this Government, its unity, its creation by the people, its ordination by them as one Government, and an entire annihilation of the whole doctrine of secession. The difficulty was this: that the gentleman who furnished it, and who caused the unwitting reading of it, I have no doubt, in its mutilated condition, by the Senator from Louisiana, omitted the most remarkable part of the whole passage; and it is more remarkable in this—it is for that reason I hasten to acquit my distinguished friend of any knowledge of the misapprehension—that it is in the very same paragraph; and there had to be in that paragraph shis very same process of separation and disunion which is getting to be fashionable now-a-days, to make it bear upon the Senator's view of the question at all. I will read it. It begins in this wise:

"In the calm hours of self-possession, the right of a State to nullify an act of Congress is too absurd for argument, and too odious for discussion. The right of a State to secede from the Union is equally disowned by the principles of the Declaration of Independence."

Now, sir, there follows after that the passage read by the distinguished gentleman. It is a passage, as I understand it, incorporated in his speech, which presents the opinion of Mr. Adams that there may be extreme cases in which a State or a community has a right to revolutionize. So much for the third authority quoted by the distinguished Senator.

Now, speaking of authorities, let me add once more, that this speech of Mr. Adams, entitled the Jubilee of the Constitution, delivered by him, with all his exhaustive power as to any subject to which he turned his attention, is, in point of fact, an irresistable argument in favor of our proposition that the Constitution of the United States is an ordained Government by the people for the government of the people, and that it is in no sense, and can never be, taken or considered as a compact between sovereign States. Nay, sir, throughout the whole course of that speech he goes much further. He argues with great power, and with great historical research, to show that, not only is the Constitution of the United States a Government formed by the people and not a compact between States, but that the old Confederation, prior to the Constitution, was intended to be that form of Government also; that really the people of the thirteen revolting or revolutionary colonies intended, even at the time of the Declaration of Independence, preceding both the Constitution and the Conderation, to form then a united Government of one common people. I will read,

not wearying the Senate, as I trust, by authorities much more expressive of constitutional law than anything I can say will be, the conclusion to which Mr. Adams comes as the sum total of the whole argument:

"That the Constitution of the United States was a return to the principles of the Declaration of Independence, and the exclusive constituent power of the people. That it was the work of the one people of the United States; and that those United States, though doubled in numbers, still constitute, as a nation, but one people.

"That this Constitution, making due allowance for the imperfections and errors incident to all human affairs, has, under all the vicissitudes and changes of war and peace, been administered upon these same principles during a career of fifty years

"That its fruits have been, still making allowance for human imperfection, a more perfect union, established justice, domestic tranquility, provision for the common defense, promotion of the general welfare, and the enjoyment of the blessings of liberty by the constituent people and their posterity to the present day.

"And now the future is all before us, and Providence our guide"

And I submit again, in the most respectful spirit, Mr. President, that the authority of Mr. John Quincy Adams is direct, positive, unequivocal, in maintainance of the propositions we are endeavoring to establish, and utterly and totally contradictory to all the distinguished Senator from Louisiana has said upon that subject.

And yet once more, sir, I quote from General Jackson. It is an authority which I trust the distinguished gentleman will revere. As I have said, South Carolina attempted to do once before what it is said she has accomplished now. There was then a President of the United States determined to do his whole duty. Whether there be now, I leave others to determine:

"The States severally have not retained their entire sovereignty It has been shown that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties, declare war, levy taxes, exercise exclusive judicial and legislative powers were all functions of sovereign power. The States, then, for all these important purposes, were no longer sovereign. The allegiance of their citizens was transferred in the first instance to the government of the United States; they became American citizens, and owed obedience to the Constitution of the United States."

He says, again:

"The unit of our political character (as has been shown for another purpose) commenced with its very existence. Under the royal government we had no separate character; our opposition to its oppression began as united colonies. We were the United States under the confederation, and the name was perpetuated, and the Union rendered more perfect by the Federal Constitution" * * * * "It would not do to say that our Constitution was only a league, but it is labored to prove it a compact, (which, in one sense, it is,) and then to argue that, as a league is a compact, every compact between nations must, of course, be a league, and that from such an engagement every sovereign power has a right to recede. But it has been shown that in this sense the States are not sovereign, and that even if they were, and the national Constitution had been formed by compact, there would be no right in any one State to exonerate itself from the obligation"

Another mistake which (speaking with great deference) I think is obvious throughout the whole speech of the Senator from Louisiana, is the assumption, not only that the Constitution is a compact, but that the States parties to it are sovereigns. Sir, they are not sovereign; and this Federal Government is not sovereign. Paraphrasing the Mahometan expression, "there is but one God," I may say, and I do say, not without reverence, there is but one sovereign, and that sovereign is the people. The State Government is its creation; the Federal Government is its creation; each supreme in its sphere; each sovereign for its purpose; but each limited in its authority, and each dependent upon delegated power. Why, sir, can that State—either Oregon or South Carolina—be sovereign which relinquishes the insignia of sovereignty, the exercise of its highest powers, the expression of its noblest dignities? Not so. We can neither coin money, nor levy impost duties, nor make war, nor peace, nor raise standing armies, nor build fleets, nor issue bills of credit. In short, sir, we cannot do—because the people, as sovereigns, have placed that power in other hands—many, nay, most, of those things which exhibit and proclaim the sovereignty of a State to the whole world. Mr. Webster has well observed that there can be in this counlry, no sovereignty in the European sense of sovereignty. It is, I believe, a feudal idea. It has no place here. I repeat, we are not sovereign here. They are nots overeign in South Carolina; they are not, and cannot be in the nature of the case; and therefore all assumptions and all presumptions arising out of the propositions of sovereignty—supremacy upon the part of a State—is a fallacy from beginning to end.

Again, sir: Mr. Calhoun, in the course of this celebrated argument, in well chosen words, insisted that the States in their sovereign capacity, acceded to a compact. Mr. Webster replied with his usual force. The word "accede" was chosen as the converse of "secede;" the argument being intended to be that if the State accedes to a compact she may secede from that compact. But, said Mr. Webster—and no man has answered the argument, and no man ever will—it is not an accession to a com-

pact at all; it is not the formation of a league at all; it is the action of the people of the United States carrying into effect their purpose from the Declaration of Independence itself, manifested in the ordination and establishment of a Government, and expressed in their own emphatic words in the preamble of the Constitution of the United States itself.

In arguing upon the meaning and import of the Constitution, I had hoped that a lawyer so distinguished as the gentleman from Louisiana, would have referred to the terms of that document to have endeavored at least to find its real meaning from its force and mode of expression. In the absence of such a quotation, I beg leave to remind him that the Constitution itself declares by whom it was made, and for what it was made. Mr. Adams, reading it, declares that the Constitution of the United States was the work of one people—the people of the United States—and that those United States still constitute one people; and to establish that, among other things, he refers to the fact—the great, the patent, the glorious fact—that the Constitution declares itself to have been made by the people, and not by sovereign States, but by the people of the United States; not a compact, not a league, but it declares that the people of the United States do ordain and establish a Government. Now, I ask the distinguished Senator, what becomes of this iteration and reiteration, that the Constitution is a compact between sovereign States?

Pursuing what I think is a defective mode of reasoning from beginning to end, the distinguished Senator from Louisiana quotes Vattel, and for what? To prove what, as I understand, nobody denies: that a sovereign State, being sovereign, may make a compact, and afterwards withdraw from it. Our answer to that is, that South Carolina is not a sovereign State; that South Carolina has not made a compact, and that, therefore, it is not true that she can withdraw from it; and I submit that all these disquisitions upon the nature of European sovereignty, or any of those forms of government to which the distinguished author which he has quoted had his observation attracted, is no argument whatever in a controversy as to the force and meaning of our Constitution bearing upon States, sovereign in some sense, not sovereign in others, but bearing most upon individuals in their individual relations.

But the object of the speech was twofold. It was to prove first, that this Union was a compact between States, and that, therefore, there was a rightful remedy for injury, intolerable or otherwise, by secession. Now, sir, I confess in one thing I do not understand this speech, although it be clearly written and forcibly expressed. Does the Senator mean to argue that there is such a thing as a constitutional right of secession? Is it a right under the Constitution, or is it a right above it and beyond it?

Mr. BENJAMIN. I do not know whether the Senator desires an answer now.

Mr. BAKER. Yes, sir; now.

Mr. BENJAMIN. Well, sir, I will take example from gentlemen on the other side, and I will answer his question by asking another.

Mr. BAKER. Do, sir.

Mr. BENJAMIN. I will ask him if the State of South Carolina were refused more than one Senator on this floor, whether she would have a right to withdraw from the Union, and if so, whether it would arise out of the Constitution or not.

Mr. BAKER. Now, Mr. President, I will do what the distinguished Senator from Louisiana has not done: I will answer the question, [laughter.] He asks me whether if the State of South Carolina, sending two Senators here loyally, with affectionate reverence for the Constitution, were denied the admission of one, or, if you like, of both, it would be cause for withdrawal. I understand that to be the question. Sir, I reply: that would depend upon several things yet to be stated and determined: First, I think South Carolina ought to inquire what is the cause of that refusal. I believe this body is the judge of the qualification of its own members. If the Senator was disqualified, or if in any fair judgment or reasonable judgment we believed he ought not to occupy a seat upon this floor, surely it would not be cause of withdrawal or secession, or revolution, or war, if we were to send him back.

But, sir, I will meet the question in the full spirit in which, I suppose, it is intended to put it. It is this: the right of representation is a sacred right. If that right is fraudulently and pertinaciously denied, has the State to which it is denied a right to secede in consequence thereof? I answer, the right of representation, is a right, in my judgment, inalienable. It belongs to all communities, and to all men. It is of the very nature and essence of free government; and if, by force, by despotism of the many over the few, it is denied, solemnly, despotically, of purpose, the intolerable

oppression resulting from that may be repelled by all the means which God and nature have put in our hands. Is the honorable Senator answered?

Mr. BENJAMIN. Not Yet.

Mr. BAKER. What, sir?

Mr. BENJAMIN. I was saying to the Senator, not yet. I asked him whether he denied the fact that, in the supposed case, which he has very fairly met, the right to withdraw resulted from the breach of the agreement in the Constitution, and would be a right growing out of the violation of the Constitution, independent of the question of oppression at all?

Mr. BAKER. Well, sir, I beg leave to say, in answer to that: that is not the question the honorable Senator put to me, but I will answer that. The right of South Carolina to withdraw, because the fundamental right of representation is denied her, is the right of revolution, of rebellion. It does not depend upon constitutional guarantees at all. It is beyond them, above them, and not of them. Now, is the Senator answered?

Mr. BENJAMIN. I am fully answered. I am only surprised at the answer.

Mr. BAKER. Now, will the distinguished Senator answer me?

Mr. BENJAMIN. With pleasure. Will the Senator state his question once more?

Mr. BAKER. Is there such a thing as a constitutional right of South Carolina to secede?

Mr. BENJAMIN. I thought, Mr. President, that my proposition on that subject could not be mistaken. I hold that there is, from the very nature of the Constitution itself, from the theory upon which it is formed, a right in any State to withdraw from the compact, if its provisions are violated to her detriment.

Mr. BAKER. Well now, sir, I understand what I did not quite understand before—no doubt it was owing to my obtuseness—that the gentleman contends that there is in the State of South Carolina a right to secede, to use his own words, in the very nature of the Constitution itself.

Mr. BENJAMIN. Resulting from the very nature of the compact, which I consider the Constitution to be.

Mr. BAKER. But that, Mr. President, is not what the Senator did say. I press him on this point again. Does the right to secede spring out of and belong to the Constitution. And if so, where? I am a strict constructionist.

Mr. BENJAMIN. I am, too; and, if the Senator will admit with me, what I suppose he will scarcely deny, that the States have reserved to themselves under the Constitution, by express language, every right not expressly denied to them by the Constitution, I say that he will find in the ninth and tenth amendments to the Constitution the recognition of the very right which I claim.

Mr. BAKER. Well, sir, the answer to that is just this; that we have been endeavoring to show—and I think irresistably—that, so far from its being true that the States do reserve to themselves in the Constitution all rights not delegated by it, they do not reserve anything, for they are not parties to it; and there is no such thing as a reservation by the States at all. The instrument is made by the people; and the reservations, if any, are made by the people, not the States.

Mr. BENJAMIN. If I am not intruding upon the Senator's line of argument or time—and if I am I will not say another word—

Mr. BAKER. Not at all.

Mr. BENJAMIN. I ask the Senator whether, after the Constitution had been framed, amendments were not proposed by nearly all the States and adopted, for the very purpose of meeting that construction for which he is now contending; for the very purpose of maintaining the proposition against which he now argues? His idea is, that the Constitution of the United States formed a Government over the whole people as a mass. The amendments state distinctly that that was not the meaning of the Constitution; but that, on the contrary, it was a delegation of power by the States, and that the States and the people of the States reserved to themselves all powers not expressly delegated.

Mr. BAKER. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" that is the amendment. Now, in answer, I say that in full light of that amendment, every authority which I have read, every argument at which I have glanced, from Jackson, from Madison, from Webster, from Adams, all unite in the proposition that still this is a Government made by the people of the United

States, in their character of people of the States, being one Government by them ordained.

Mr. BENJAMIN. Will the Senator be good enough to tell me what he deems to be the meaning of this article of the Constitution.

[A disturbance in the galleries attracted the attention of the Chair, caused by loud laughing and talking.]

The PRESIDING OFFICER, (Mr. FOOT in the chair.) Order in the galleries. The Sergeant-at-Arms will remove the persons from the galleries in front of the Chair, on the right of the clock, forthwith. The order of the Senate must be preserved.

Mr. BENJAMIN. Will the Senator be good enough to allow me to call his attention to the seventh and last article of the Constitution. "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same"—not read the preamble, but the bargain.

Mr. BAKER. Where shall I find it, sir?

Mr. BENJAMIN. In the very last article of the Constitution.

Mr. BAKER. I am not sure that I understand the force of the distinction which the honorable gentleman makes between the preamble and the Constitution itself. Following the example of Mr. Webster, I love to read the whole instrument together; but I will answer the Senator.

"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

Mr. BENJAMIN. "Between the States."

Mr. BAKER. Mr. President, what are the conventions of nine States but the people of nine States? There is the answer at once. It is not ratification by the State Legislature.

Mr. BENJAMIN. What is the meaning of the phrase "between the States?" Is not that the language of compact?

Mr. BAKER. Well, it is obvious enough. Ratification is to be done by the people. It is made by the people in the first place. It so proposes. It is to be ratified by them in the second place; and being so made by them, and being so ratified by them, is binding upon the States, which are the governments of the people that ratified it. That is all. But, sir, the Senator does not escape in that way. I ask him yet once again, is the right to secede a right growing out of the Constitution itself? If so, where? What is that provision? I repeat, I am a strict constructionist. He says he is. I am not now going to hunt for a vagrant and doubtful power; but when States propose to secede, to dissolve the Union, to declare war, to drench confederated States in fraternal blood, I ask if they claim it as a constitutional right to take the step which will inevitably lead to that? I ask for the word, the page, the place, and I meet no reply.

Mr. BENJAMIN. I again refer the Senator to the words and the place. If the right of secession exists at all, under any circumstances, revolutionary or not, it is a State right. Now, the question whether it exists under the Constitution or not, can only be determined in one way: first, by examining what powers are prohibited to the States; and next, whether the powers not prohibited are reserved. This power is nowhere prohibited; and the tenth amendment declares that the powers not prohibited by the Constitution to the States are reserved to the States.

Mr. BAKER. Mr. President, I do not percieve the importance, nay, the profit, of pursuing that line of inquiry any further. I have asked for the answer of the honorable Senator to that question; and if with that answer he is content, and if by that answer he intends to abide, so be it. I think that we have well disposed of the right of secession under the Constitution itself. I advance to another proposition.

I admit that there is a revolutionary right. Whence does it spring? How is it limited? To these questions for a moment I address myself. Whence does it spring? Why, sir, as a right in communities, it is of the same nature as the right of self-preservation in the individual. A community protects itself by revolution against intolerable oppression under any form of government, as an individual protects himself against intolerable oppression by brute force. No compact, no treaty, no constitution, no form of government, no oath or obligation can deprive a man or a community of that sacred, ultimate right. Now, sir, I think I state that proposition as fully as I could be desired to state it by the gentleman upon the other side. The question that arises between us at once is, is the right of revolution springing out of the self-

preservation belonging to communities, as to individuals, must be exercised—how? In a case, and in a case only, where all other remedies fail; where the oppression is grinding, intolerable, and permanent; where revolution is in its nature a fit redress; and where they who adopt it as a remedy can do it in the full light of all the examples of the past; of all the responsibilities of the present; of all the unimpassioned judgment of the future, and the ultimate determination of the supreme Arbiter and Judge of all. Sir, a right so exercised is a sacred right. I maintain it; and I would exercise it. The question recurs: has South Carolina that right?

I think the honorable Senator will not deny that one of the gravest responsibilities which can devolve upon a community or a State is to break up an established, peaceful form of government. If that be true as an abstract proposition, how much more does the truth strike us when we apply it to the condition in which we found ourselves two months ago. South Carolina proposes now, according to the latter doctrine, to secede as a revolutionary right; as a resistance against intolerable oppression; as an appeal to arms for the maintenance of rights, for the redress of wrongs, where the one cannot be maintained and the other be redressed otherwise. Now, sir, I demand of her and of those who defend her, that she should stand out in the broad light of history, and declare, if not by the Senators that she ought to have on this floor, by those who league with her, in what that oppression consists; where that injury is inflicted; by whom the blow is struck; what weapon is used in the attack? So much, at least, we have a right to inquire. After we make that inquiry, permit me to add another thing: a State claiming to be sovereign and a people part of a great government ought to act with deliberation and dignity; she ought to be able to appeal to all history for kindred cases of intolerable oppression, and kindred occasions of magnanimous revolution.

Sir, we are not unacquainted in this Chamber with the history of revolutions. We very well know that our forefathers rebelled against the domination of the house of Stuart. And why? The causes are as well known to the world as the great struggle by which they maintained the right, and the great renown which has forever followed the deed. When Oliver Cromwell brought a traitorous, false king, and gave him, "a dim discrowned monarch," to the block, he did it by a solemn judgment in the face of man and in the face of Heaven, avouching the deed on the great doctrine of revolutionary right; and although a fickle people betrayed his memory—although the traditions of monarchy were as yet too strong for the better thought of the English people—yet still, now, here, to-day, wherever the English language is read, wherever that historic glowing story is repeated, the hearts of brave and generous men throb when the deed is avouched, and justify the act.

Again: there was a second revolution—the revolution of 1688; and why? Because a cowardly, fanatic, bigotted monarch sought, by the exercise of a power to be used through the bayonets of standing armies, to repress the spirit and destroy the liberties of a free people; because he attempted to force upon them a religion alien to their thought and to their hope; because he attempted to trample under foot all that was sacred in the constitution of English government.

And, sir, in the history of revolutions there are examples more illustrious still—perhaps the greatest of them all, that revolution which ended in the establishment of the Dutch Republic. My honorable and distinguished friend, I know, has read the glowing pages of Motley, perhaps the most accurate, if not the most brilliant, of American historians. I am sure that his heart has throbbed with generous enthusiasm as he read the thrilling pages of that story where a great people, led by the heroic house of Orange, pursued through danger, through sacrifice, through blood, through the destruction of property, of homes, of families, and of all but the great indistructible spirit of liberty, the tenor of their way to liberty and greatness, and glory, at last. Sir, I need not tell him the oppression against which they rebelled; that the intolerable tyranny under which they groaned was of itself sufficient not only to enlist upon their side and in their behalf all the sympathies of civilized Europe then, but the sympathies of the whole civilized world, as they have read the story since.

Yet once more, in the full light of these revolutions, our forefathers rebelled against a tyrant, declaring the causes of the Revolution, proclaiming them to the world in an immortal document that is familiar to us all. We recognize the right Why? Because the oppression was intolerable; because the tyranny could not be borne; because the essential rights belonging to every human being were violated, and that continually; and in words more eloquent than I could use, or than I have

now time to quote, Mr. Jefferson proclaimed them to the world, and gave the reasons which impelled us to the separation. Sir, I ask the honorable Senator to bring his record of reasons for revolution, bloodshed, and war here to-day, and compare them with that document.

If, then, Mr. President, the controversy is not upon the abstract right of secession, nor upon the revolutionary right of secession in a case fit and proper; but if, at last, it narrows itself down into a discussion of the reasons why South Carolina is to revolt, I propose to enter with a little minuteness of detail into the history of those reasons. I shall find them in several sources: first, chiefest, perhaps best, in the speech now before me of the Senator from Louisiana; secondly, in the very impulsive, very brilliant speech of the honorable Senator from Texas, [Mr. WIGFALL;] and, if I have time to pursue the search, perhaps in the speech of the excited and excitable Senator from Georgia, [Mr. IVERSON.] The gentleman from Louisiana says, that not devoting very much time to the catalogue, and not giving it with any hope that it will avert the issue of arms, he will yet suggest some of the wrongs and outrages which that "dreary catalogue" presents as having happended to the State of South Carolina. Before he does so however, he says that the wrongs under which she groans, the injuries which justify and demand revolution, are to be found "chiefly in a difference of our construction of the Constitution." Sir, is not that a "lame and impotent conclusion?" I was astonished. I have known—again to quote the words of Mr. Webster—I have known, perhaps I may know again shortly, that there are cases when the war does not always come up to the manifesto; but from the seriousness with which the distinguished Senator approached the subject, I did not expect to find a qualification which would destroy the import and force of his catalogue altogether. Why, sir, can it be that any man in his sober senses will pretend that there can be cause for revolution, war, because two parties in this Government differ as to their construction of one article in the Federal Constitution? Can that be so? And yet, in the face of earth and Heaven, I recall the fact that the honorable Senator declares that the principal causes of grievance are to be found in a difference in the construction of one article of the Constitution of the United States.

Mr. BENJAMIN. The Senator will pardon me. I do not think he will find that in anything I said.

Mr. BAKER. Far be it from me to misrepresent the gentleman. If I do not find it, I will withdraw what I have said. I quote his words, and they were words well considered, beautifully chosen:

"Before, however, making any statement—that statement to which we have been challenged, and which I shall make in but very few words—of the wrongs under which the South is now suffering, and for which she seeks redress, as the difficulty seems to arise chiefly from a difference in our construction of the Constitution, I desire to read"—

Something else. Now, sir, I ask him whether I am not justified in saying that his main ground of complaint in his catalogue of dreary outrages and intolerable wrongs, is that that catalogue is founded, to use his own words, chiefly upon a difference in the construction of the Constitution of the United States?

Mr. BENJAMIN. The Senator will pardon me. He stated that I had said they arose from a differeuce in the construction of one clause of the Constitution.

Mr. BAKER. Well, sir, let it be "two rogues in buckram," or seven; the idea is the same.

Mr. BENJAMIN. That is it. We have eight or ten grievances; because you all construe the Constitution on the erroneous principles you have announced this morning.

Mr. BAKER. I am here to show that, so far as the argument of the gentleman from South Carolina is concerned, the chief cause of difference does not arise as to the construction of one article of the Constitution. I am told that, in the heat of debate, I said the Senator from South Carolina. Sir, if I made the mistake, it was but the mistake of supposing, with Shakespere, that

"A substitute shines brightly as a king,
Unless a king be by."

Now, sir, suppose we differed about a dozen articles of the Constitution: what then? I read the catalogue of wrongs, and I find, as a lawyer, that they must refer themselves principally to one; but suppose there are more: what then? There are some things that do not appear to strike the honorable Senator in this connection. For instance: does he remember that although he may have one construction of the Con-

stitution, and I may have another, there is between us a supreme arbiter, and that upon every conceivable clause about which we may differ, or have differed, that arbiter has decided always upon one side? To begin: there have been debates in this Chamber, and elsewhere, as to the true construction of that clause of the Constitution which requires the rendition of fugitive slaves. I will use that term. There are very distinguished members now upon this floor who have argued with great gravity and wisdom and research and eloquence, that it was intended that the power of rendition should be exercised by States. That question, with all questions kindred to it, about which any of us may have differed, has gone before the Supreme Court of the United States, and has been decided against us, or some of us, and in favor of the constitutionality of the law as it now stands; and we have yielded to it, not a submission, but a better word, obedience. Is not that true?

Again, we have differed of late days—and I am here to show, directly, how late that difference is, and I trust I shall show how ill-considered—as to the construction of the Constitution upon the subject of the government of the Territories. That is not a political question merely. That is capable of being made the subject of a suit in law or equity, under the provisions of the Constitution. That has gone before the Supreme Court of the United States. There has been, as we all agree, a judgment; there has been, as most here contend, a decision; there has been, as everybody admits, an opinion. All these have been adverse to us. Is there in that any cause of complaint?

There are two points; and as the honorable Senator asks me questions, I will ask him another. Is there any other cause of complaint, except under these two clauses of the Constitution, belonging to the constitutional controversy? The fugitive slave law is one, the right to take your slaves into the Territories the other. Are there any others?

Mr. BENJAMIN. Undoubtedly, Mr. President. I thought I enumerated six on Monday. If the Senator will do me the honor to read the complaints which I made in behalf of the South, he will find them. Then, if those are not sufficient, I can furnish half a dozen more.

Mr. BAKER. Mr. President, I may remark that those other causes of grievance which, upon an occasion so solemn as that presented by the Senator the other day, were not mentioned in that category, were best left unsummed. If they were not of sufficient importance to be enumerated then, they ought not to be brought up by way of make-weight now. I hold him to his record.

Mr. BENJAMIN. Read.

Mr. BAKER. I have now, as I understand it, presented two main causes of grievance arising, as he says, out of defective constitutional construction; and, although I see many specifications, I understand they are all parts of two charges arising out of defective construction upon these two points. For instance: one of the six charges is, we slander you. Sure we do not do that under the Constitution. We slander you, we vilify you, we abuse you, you say. Well, that is not a constitutional difficulty, [laughter,] and if my distinguished friend will look at his "dreary catalogue," he will find that, save the two which I have mentioned, the remainder are but amplification, extention of grievances arising outside of the Constitution, from difference of sentiment, opinions, morals, or habits, and not the cause of constitutional complaint. Therefore I am not answered when he says, "Look at my catalogue." I repeat once more, to make it still plainer, that there are but two constitutional causes of complaint: one in regard to the rendition of fugitive slaves, the other the government of the Territories. The difficulties arise out of those two provisions. All the rest are matters of sentiment, of opinion, of habit, and of morals, which neither Constitutions nor laws can cause or cure.

Mr. BENJAMIN. Mr. President, if the Senator wants me to answer the difficulties of which the South complains, and in consequence of which she refuses any longer to remain confederated with her sister States at the North, arise exclusively from violations of the rights of the South in relation to her slave property, I answer, yes. He may take one, two, three, five, or six, clauses of the Constitution; they all come back to that single point—your constant, persistent warfare upon our property, instead of using the powers of the Federal Government, to protect, preserve, and cherish it.

Mr. BAKER. And thus, Mr. President, after questioning and cross-questioning and exercising that power of cross-examination which in courts, and I believe elsewhere, we sometimes call the test of truth, I bring the Senator, as I understand him,

at last to agree that when he says in his labored speech the difficulty arises chiefly out of a defective construction of the Constitution by us Black Republicans, or us people of the North, it is to be found upon two subjects; one in relation to the fugitive slave question, and the other to the government of the Territories.

Mr. BENJAMIN. Not simply as to fugitive slaves, but all slaves.

Mr. BAKER. But that is included in this question of territorial government, of the Wilmot proviso, of the right of the South to take her slave there, and go where she pleases and as she pleases. These are the questions——

Mr. BENJAMIN. Why, Mr. President, if the Senator will look once again at what I said, he will find that it does not comprise only a reference to such slaves as escape, but he will find that we refer constantly and openly in debate to organized and persistent efforts on the part of entire bodies of the people at the North, with the connivance, with the secret aid of their fellow-citizens, to rob us of our property—not simply not returning such slaves as may escape, but organizing means to take away our property and hide it beyond our reach, and make the fugitive slave law utterly valueless, even if it was executed, by preventing our discovering even where a slave is.

Mr. BAKER. Mr. President, I reply to that, that is nothing more than brilliant amplification. The point that I press the Senator upon is this—he has no reply to it: have you any other difficulty with us about constitutional construction except upon two subjects? I do not ask you now whether you complain that we rob you of your slaves. That is not the point. Do we do it under constitutional construction? I repeat: take the whole tenor of the speech, the complaint, the catalogue the "dreary catalogue;" it all ends in this: that there are differences of opinion among us of sentiment. You complain of our bad morals and our bad manners; you say we rob you; you say we intend to establish a cordon of free States around you; you say that we are persistent in what we do on this point; but at last, in your better and your more candid moments, you say that the difficulty seems to arise chiefly from a difference in our construction of the Constitution. I add to that, that you will not contradict the addition, that it is a difference in our construction of the Constitution upon two subjects—first, the rendition of fugitive slaves; second, the government of the Territories so as to exclude slavery from those Territories by the power either of the General Government or the Territorial Legislature. I think we arrive clearly at the points to be debated between us.

Now, sir, first, of the fugitive slave law. What is the construction that we give to the fugitive slave law, of which the Senator complains? I have already answered that question. We did in argument give a construction. We were defeated. The question went before the Supreme Court. We were overruled. We have obeyed that decision loyally ever since. We have never seriously endeavored to repeal it; nor have we as a party, nor as a North,, endeavored to defeat its execution. Nay, if we had, that is not within the Senator's counts, because he does not say that the difficulty arises out of mal-execution of the fugitive slave law; but out of the differences of opinion between us as to the construction of the Constitution. Here I answer again, and I will quote Mr. Lincoln, about to be inaugurated as President of these United States—a man who seeks to make his opinions known in all proper ways and upon all proper occasions; a man who for simplicity of purpose, directness of expression, is not surpassed in this country; a man whose honesty has already worthily passed into a proverb. You will find in the history of the debates, unsurpasssed in ability in this country, between the distinguished Senator from Illinois, [Mr. DOUGLAS,] and the President elect, that he was asked, and for obvious purposes, what his opinion was upon this fugitive slave law question, and he replied:

"*Question.* I desire to know whether Lincoln to-day stands, as he did in 1854, in favor of the unconditional repeal of the fugitive slave law?

"*Answer.* I do not now. nor ever did, stand in favor of the unconditional repeal of the fugitive slave law."
—*Debates of Lincoln and Douglas*, p. 88.

Is that clear and distinct? And, sir, I echo him, not because he is Prisident, but because he is honest, and wise, and true. I, who want nothing of him; I, who am not, and in no sense can ever be, dependent on him. I reply with him. I, as a Senator on this floor, repeating the opinion of my constituents, without distinction of party. I, too, say that I am not, have not been, never will be, in favor of the unconditional repeal of the fugitive slave law.

Again, sir: since the passage of that law, the Republican party has sprung into existence. We have had two political campaigns. In one untried, unorganized,

without reasonable grounds for hope, we astonished ourselves, we astonished the country, by our strength. In the other, gethering together all the irresistible elements of freedom in the North and West, we have gained a great political triumph, which we intend to use wisely, but which we intend to guard well. Have we, in any platform, in any resolutions, by any bill. in any way evinced a disposition to repeal that fugitive slave law? Do we not, upon all fit occasions, say that, though many of us believe it is a hard bargain, yet that it is so "nominated in the bond," and we will endure it?

Now, sir, when we make these statements — we have made them in the canvass; I make them more deliberately now — what is the reply? I know it of old. Why, it is said, "while your platform does not propose to repeal the fugitive slave law, there are States which pass personal liberty bills." Will gentlemen listen to our calm, frank, candid reply? First, the sense of the whole North is opposed to nullification, in any way or upon any subject. We will yield obedience — and I have said that it is a better word than submission — to any provision of the Constitution of the United States, as it is coustrued by the ultimate tribunal. They have, as we understand it, declared that law to be constitutional, and to that decision we yield. If there be States which have passed laws in violation of it, preventive of it, to hin der, to defeat, to delay it, my judgment — and sir, what is of infinitely more consequence in the judgment of the North and West — those laws ought to be repealed; not because South Carolina threatens; not because Louisiana will secede; but because we desire to yield obedience to those highest obligations, right and duty, of which I made mention in the commencement of this argument.

But, sir, the honorable and distinguished gentleman upon the other side knows very well that there is very serious and grave debate whether those laws are in any sense unconstitutional. We are told that some of them were made before the fugitive slave law, bearing upon other questions and directed to other objects. We are told that the provisions of many of them are provisions intended to guard and secure personal liberty, independent of any question as to the fugitive slave law. But whether that be so to any extent, or to what extent, we say that if it shall be proved before any competent tribunal, and most of all, before the Supreme Court of the United States, that those laws, or any of them, in any of their provisions, do hinder, delay, defeat the execution of that law, "reform it altogether." Sir, speaking in my place, with some knowledge of the Republican party, speaking by no authority in the world for the President elect, but speaking of him because I have known him from my boyhood, or nearly so, I say that, when the time arrives that he shall be inaugurated in this Capital, and exercise in the chair of the Chief Magistrate, all the high responsible duties of that office, he will enforce the execution of all the laws of this Government, whether revenue or fugitive slave, or territorial or otherwise, with the whole integrity of his character and the whole power of the Government. Now, I ask my distinguished friend if that is not a fair, frank reply to all the objections he may make as to differences of construction about the fugitive slave law?

Mr. BENJAMIN. If the Senator wants the answer now——

Mr. BAKER. Certainly, sir; let the blow fall now.

Mr. BENJAMIN. It is not at all satisfactory; not in the remotest degree.

Mr. BAKER. My honorable friend will not say that that is a reply. If I were in court, or elsewhere, and not in so grave a body as the Senate of the United States, I would quote two celebrated lines in reply to that, to the effect that those who suffer from the law do not always have a good opinion of it; but I refrain. I repeat that, in judgmennt of reasonable men, that is an answer, and a full and complete answer to the objection made against us, that you are going to secede because of any difference of opinion between us as to the construction of the provisions of the Constitution and our duty about the fugitive slave law.

There are some other observations with which I beg leave to detain the Senate, however, upon that subject. That can scarcely be considered one of the objections; first because the State of South Carolina, herself, through her only authorized expositor, the Charleston Mercury, declares and has declared that she believes the law to be unconstitutional anyhow. One of the most distinguished of her sons, Mr. Rhett, repeats and emphasizes the same remark. A distinguished gentleman, the Senator from Georgia, lately occupying the Chair, not now in it, [Mr. IVERSON,] has said lately upon this floor that the South does not complain of any construction which the North gives to that law, nay, more, that the law is well made, carefully guarded, just to the South, and so far as the Federal Government is concerned, properly executed.

Now, sir, can that be the ground of complaint, about which South Carolina is going out? Will she separate the bonds that have bound us together for more than seventy years, because she does not think that we quite perfectly obey a law which she, herself, in the person of her most distinguished servants, declares to be unconstitutional? Not so, sir. Or will Georgia follow the illustrious example of South Carolina, and desert the Republic, when her representative on this floor, declares that upon that subject the North performs all its obligations? These are questions which I leave to their honor and their dignity to decide.

Again, sir, the distinguished Senator from Louisiana points out in the dreary catalogue, and, as I hold, it is the chief cause of complaint, the construction which the North gives to the Constitution on the subject of the government of the Territories; and the first, or if not the first in that exact charge, first in the general charge—and I will meet it here and now—is that we persistently refuse to consider, or in other and perhaps better words, that we deny that slaves are property. Now this is a very serious ground of complaint. It is very persistently made. It is very frequently repeated. Nay, more, I do believe that there are people who are firmly convinced that this is true; but the honorable Senator from Louisiana ought not to be one of them. I believe I do not misquote you, sir.

Mr. BENJAMIN. Does the Senator deny that that is the proposition maintained?

Mr. BAKER. I do, sir.

Mr. BENJAMIN. That is precisely the proposition your side of the house voted down in our committee. They refused to vote that slaves were property. They voted against it.

Mr. BAKER. I will meet that directly. I do not meet it at this moment, because it in somewise breaks the line of thought that I intend to pursue; but if before I close, I fail to allude to it, I shall be obliged to the courtesy of the Senator from Louisiana to remind me of it again.

Mr. Webster, a great authority, in a speech which he delivered upon the bill creating the Terrritory of Oregon, in which he advocated the inclusion of the Wilmot proviso, and perhaps through whose influence it was then done, speaking upon this subject of slavery and slave property, held the following language; language which I believed then, and I believe now, embodies the general, I may say the universal, opinion of the Republicans, if not the whole North, upon that subject.

Mr. DOOLITTLE read, as follows:

"The Southern States have peculiar laws, and by those laws there is property in slaves. This is purely local The real meaning, then, of Southern gentlemen in making this complaint is, that they cannot go into the Territories of the United States, carrying with them their own peculiar law—a law which creates property in persons. This, according to their own statement, is all the ground of complaint they have. Now here, I think, gentlemen are unjust towards us. How unjust they are others will judge. Generations that will come after us will judge. It will not be contended that this sort of personal slavery exists by general law. It exists only by local law. I do not mean to deny the validity of that local law where it is established; but say it is, after all, nothing but local law; it is nothing more; and wherever that local law does not extend, property in persons does not exist."

Mr. BAKER. Now, sir, I submit to the honorable Senator from Louisiana that that is a clear exposition of the opinion of what I think I may say is the universal North upon that point. If that be the ground of complaint, I proceed to meet it historically and argumentatively. If there be any other ground of complaint upon that, if that be not a clear statement of what he supposes we really do believe, if we have any other heresy incorporated with that, which that does not really express, I will wait now for a declaration upon that subject. I take it for granted then, Mr. President, that that is the cause of complaint that we of the North——

Mr. BENJAMIN. It is difficult to follow a line of argument in this interrupted way; but I will state to the Senator that the complaint of the South is: that forming a part of one common Government, and owning that which was recognized as property by all the States at the time of the formation of the Constitution, the North now undertakes to say that under that Constitntion slaves are not property when found within the jurisdiction of the Federal Government outside of the State. We complain that the Federal Government does not recognize slaves as property in the Territories at the same time that it does recognize slaves as property on the high seas; and we do not understand upon what ground it can be pretended that our slaves are property protected by the law of nations, and by the General Government under the law of nations, on the high seas, and not property in the Territories which belong to the whole United States.

Mr. BAKER. Mr. President, I understand that what the distinguished Senator has now said is nothing more than specifying by items all the causes of complaint

which are at last embodied in the original speech to which I am to reply. There is certainly this difference of opinion between us now: we do believe that slavery is the creature of local law, and does not, of its own force and power, extend beyond that jurisdiction. We do not believe, when Senators claim the contrary, and insist as a cause of grievance that we do not agree with them, that they attempt to interpolate a new reading of the Constitution, and violate the cardinal belief which has been entertained in other and better days by all the distinguished statesmen of this country, by every party, by every organization, and beyond that, which is now entertained by the whole civilized world. Slavery is the creature of local law. When we say that, do we deny that it is property at all? Do we doubt that it can be made the subject of bargain and sale according to law. Cannot a note or bond, given in consideration of the purchase or sale of a slave, be enforced in the courts of any free States? Why, sir, the whole extent of our offense is to be found alone in the earnest repetition of the great doctrines of civilized humanity—the common law, the universal law, from the beginning of the world.

I will not believe that, for that offense, the gentleman would leave us; because, sir, it is an offense not peculiar to us. It does not originate with my honorable and distinguished friend from New York, [Mr. SEWARD.] Following his lead, as I have done for many years with pleasure and with pride upon most subjects, I have, in forming that opinion, followed a lead still more illustrious than his own. Turning, for example and comfort in that opinion around me, I go far beyond the limits of the Republican party, and find support in the opinions of all parties. Sir, the State of South Carolina has had many distinguished Senators. She has been zealously and ably represented. I propose to show that, as late as 1850, a distinguished Senator from South Carolina, not now present among us, and whose loss, I have no doubt, South Carolina has cause deeply to deplore, affirmed in this Chamber the very doctrine on account of which gentlemen now propose to dissolve this Union. Mr. Butler said, in his speech of February 12, 1850, as follows; and having said that, he was replied to by the distinguished Senator from Illinois,]Mr. DOUGLAS;] both of which I ask leave to read.

Mr. DOOLITTLE read as follows:

"I wish to ask the Senator from Illinois [Mr. Douglas] whether the South, or any Southern member, or anybody else upon the floor, or anywhere else, has introduced a proposition to extend slavery? Has there ever been a proposition to extend it? Never; we have never expressed such a wish. We want no extension. Hands off. Let us alone; that is all we ask. Yet it is here asserted, as if it were positively a proposition made by the South, that we want to extend slavery. Sir, there have been too many amendments to prohibit, but none to extend slavery.

"Mr. Douglas was glad the Senator from South Carolina had asked that question. His (Mr. D.) constituents had believed the South called on us to extend slavery into the Territories. The impression has unfortunately gone forth in the North, that the South asks the North to come forward to their aid, and to extend slavery into the Territories now free. I have uniformly maintained that the South asked no such thing as was imputed to them; that they utterly denied it; that they not only expressed no desire to do this, but utterly denied that it was in the power of Congress to do it, that the position of Southern gentlemen was that Congress had no power to legislate on this subject, either for or against."

Mr. BAKER. Now, sir, I have a right to assume, as I do believe, that that was the opinion of South Carolina then. If it be not really and truly the opinion of South Carolina now, I appeal "from Philip drunk to Philip sober."

Sir, I press the gentleman still further with an authority which, lately, he would not have been disposed to deny. I shall read from a speech made by the gentleman who yet, for the good or the evil of this Republic, presides over its destinies, on the 25th day of January, 1845; not to show so much what the South then believed, as to show what opinions were entertained by the most distinguished Democrats of the country with whom, then, the South was in strict alliance, and whom they rewarded by the highest situation in their gift, as evidence of their approbation of their fidelity and good service. In 1844, the Democratic party, or at least a portion of it, including Mr. Buchanan, then a Senator of the United States, advocated the annexation of Texas on the ground that it would limit and narrow, instead of extending the institution of slavery. In Mr. Buchanan's speech of 4th of June, 1844, he said:

"In arriving at the conclusion to support this treaty, I had to encounter but one serious objection, and this was the question of slavery. While I have ever maintained, and ever shall maintain, the constitutional rights of the Southern States over their slave property, I yet feel a strong repugnance, by any act of mine, to extend the present limits of the Union over a new slaveholding Territory. After mature reflection, however, I overcame these scruples, and now believe the acquisition of Texas will be the means of limiting, not enlarging, the dominion of slavery."

Such was the opinion of Mr. Buchanan, now President of these United States.—I repeat that I quote the two passages together—one from South Carolina and the other from Pennsylvania; one from Senator Butler, and the other from President

Buchanan; one the leader of the South, the other the leader of the Democracy—to show that there was between them then a perfect acquiescence of opinion upon the subject; and that that which is called heresy in us now, was in them orthodoxy pure and perfect.

But, sir, to rise from the lesser to the greater, to speak of him who, in the hearts of his countrymen, was first in honor as in place—Harry of the West—let us see what were the opinions which he expressed upon the subject as late as 1850.

Mr. DOOLITTLE read as follows:

"Mr. Clay, on the 24th of July, 1850. said:

"In my opinion, therefore, the supposition that the Constitution of the United States carries slavery into California, supposing her not to be a State, is an assumption totally unwarranted by the Constitution. Why, if the Constitution gave the privilege, it would be incompetent for California to adopt the provision (excluding slavery) which she has in her constitution. The Constitution of the United States being supreme no State could pass an enactment in contravention of the Constitution. My rules of interpreting the Constitution are the good old rules of '98 and '99. I have never in my life deviated from those rules If, in any instance, the power to carry slaves into Territories is gurantied you by the Constitution, or is an incident necessary to the carrying out of any other power that is delegated in the Constitution, I have been unable to perceive it. You cannot put your finger on the part of the Constitution which conveys the right of the power to carry slaves from one of the States of the Union to any Territory of the United States, nor can I admit for a single moment that there are any separate or several rights upon the part of the States, or individual members of a State, or any portion of the people of the United States to carry slaves into the the Territories, under the idea that those Territories are held in common between the several States. It is a joint property, held by a common trustee for the general good, and to be administered by the general government, according to its deliberate judgment of what will best promote the common happiness and prosperity, and do justice to all"

Mr. BAKER. Such, sir, was the opinion of the great leader of the Whig party. I read now to overwhelm, as I trust, the Senator, with authority which cannot be disputed or denied, the opinion of the great leader of the Democratic party, Mr. Cass.

Mr. DOOLITTLE read as follows:

"Mr. Cass, November 4, 1854, at Detroit, said:

"The assumption which I have referred to is, that slavery is essential to the equal enjoyment of the public domain. Now, the public domain exists as well in the States as in the Territories, and every act of Congres in relation to its sale and settlement is equally in force wherever an acre of public land is to be found. There is not one statute upon this subject which does not operate as fully in Ohio as in Oregon If, therefore, the credit of the United States gives to the slaveholder the right to take his peculiar property to the public domain, how happens it that the public domain is closed to him the moment a State constitution is formed and slavery excluded from it? Does the constitution of a State overrule and override that of the United States? Such is not the reading of the general Constitution, which discloses its own supremacy upon all matters committed to it over the constitutions of the States. Either, therefore, this claim of the expansive power of slavery over the public domain is unfounded, or slaves may be taken to Ohio, or to any other of the new States where any portion of the public land is yet unsold."

Mr. BAKER. Mr. President, I have now quoted gentlemen who, in the modern phrase, are, as I apprehend to be classed "conservative" men. By the by I do not know but that I ought to apologize for the use of that word conservative. I do not profess very well to understand it. I apprehend that whatever we believe is conservative, and whatever somebody else believes is not. I am reminded of the old lines arising out of the Jacobite controversy:

"God bless the faith; God bless the faith's defender:
God bless — no harm in blessing — the pretender!
Who the pretender is, and who the King —
God bless my soul, that's quite another thing."

And I apologize, therefore, for saying conservative. They are better than that. They are men; great, able, wise, true, devoted to the country, the whole country, its Constitution, its glory and renown. The one has gone to his final rest, where neither malice nor envy can reach him more. He has gone to that rest amid the tears and prayers of generations crowded around him to the last. The other has shown in a great crisis that he loved his country more than he loved either State, or place, or power, or party. May his memory remain green in the American heart forever and forever!

[Here Senator Baker gave way for adjournment.]

SECOND DAY.

Mr. BAKER. Mr. President, I cannot resume the remarks which I propose to conclude briefly to-day, without rendering my thanks to the Senate for the courtesy which was extended toward me in allowing me to continue them now; and adding

to those thanks, others to the distinguished Senator from Illinois, [Mr. DOUGLAS,] whose just expectations of addressing the Senate to-day I will endeavor not very long to postpone.

I am not of those, Mr. President, who entertain the opinion that discussion upon all points of difference between what I hate to call "sections" of the Confederacy, can be otherwise than useful. I desire, for my part, to understand clearly and distinctly from gentlemen upon the other side, what is it of which they complain. I desire to understand, as I may, the ground, the reason, the proof of that complaint; because I am very sure that I intend, faithfully and loyally to the Constitution, to obviate all just, reasonable and manly ground of opposition to us. I do not propose in the eyes of posterity, to place myself (if, indeed, they may ever glance upon me at all) in a position where good and wise men may say, "that man, from pride of opinion or pride of party, fostered the feeling which led to the dissolution of the Union, and refused to listen to honorable and just complaint against him." I do not mean to do that. Therefore it is that I inquire, respectfully, earnestly, probing it, as I believe to the bottom, if I can, what it is that gentlemen are going to dissolve this Union about? I say, with all respect to my distinguished friend from Kentucky, [Mr. CRITTENDEN,] that to do that in a good temper, cannot do any harm; and sir, I feel, as I ought to feel upon this floor, nothing but sentiments of courtesy towards every member of this body. I hope that so far I have thus conducted the discussion, and so I shall continue to the end.

I may remark, sir, that when the Senate adjourned yesterday I was endeavoring to demonstrate that the complaint made by the distinguished Senator from Louisiana that we were endeavoring to establish a construction of the Constitution that slavery was the creature of local law, thereby banishing it from the Territories of the United States, if true, was not just as a matter of complaint; that whether he attacks the Republican party, of which I am an humble member, or whether he attacks the great majority of the people of the North, with whom I feel a common sympathy, the attack is unjust, because the leading men of the South, the public opinion of the South, the leading men of the North, the public opinion of the North, the Democracy of the North, the Republicans of the North, the Whigs of the North, nay, all classes of politicians and all classes of men have agreed, according to the doctrine and teaching of our fathers, that slavery was in fact the creature of local law only, and could not go into the Territories by virtue of that local law. That is what I have been endeavoring to establish so far, not so much as a matter of argument as a matter of authority.

For that purpose, sir, I have read passages from the speeches of many distinguished gentlemen known to the country. I have one or two more; but out of respect to the time of the Senate I will pass to the discussion of other topics. I shall read next, directly upon this question of the right of the southern people to go into the Territories with their slaves, the opinion of Mr. Cass, expressed in a speech delivered November 4, 1854, at Detroit.

Mr. DOOLITTLE read, as follows:

"The doctrine [of equality, &c.] never had any real foundation either in the Constitution or in the nature of the Confederation. It rested on the assumption that the public domain being acquired by the whole Union, the whole Union had equal rights in the enjoyment. This postulate is undeniable. But what then? It was contended, further, that the United States could not enjoy its equal right of settlement upon the public lands, unless a comparatively small portion of its inhabitants—say three hundred and fifty thousand out of more than six million white persons—could take their slaves with them; or, in other words, that every man from every State in the Union had a right to take all his property to the public domain, and there hold it—whisky, banks, or anything else—though prohibited by the local law. A true answer to this pretension is, that if any man, North or South, holds property not recognized as such or prohibited by the local law, his remedy is to be found, not in the violation of it, but in the conversion of such property into money, the universal representative of value, and take that to his new home, and there commence his work of enterprise in a new and growing community.

"If the South has changed its views of this great question, the North has not; nor is the unshaken adhesion of Northern men to their original convictions a just subject of complaint, any more than the expression of them in proper terms of forbearance and moderation."

Mr. BAKER. "Nor is the unshaken adhesion"—I quote again his emphatic language—"Nor is the unshaken adhesion of northern men to their original convictions a just subject of complaint, any more than the expression of them in proper terms of forbearance and moderation"—a very decided squint at the right itself and the right to express it.

Now, sir, it may be said that this is the opinion of a northern man. While it is none the better, I am sure it is none the worse for that. Gentlemen will remember that I am quoting on all sides, from the chieftains of the people and the leaders of

the war. But, not to be singular, and indeed to be, as I mean to be, perfectly respectful to all sections, I shall show by my next extract that Virginia, the mother of States and of statesmen, speaking by an authoritative voice on this floor—a voice which we all hear with pleasure, one of her distinguished Senators, [Senator HUNTER]—says what, according to the opinion of the Senator from Louisiana, must, I think, be considered of itself cause for dissolution.

Mr. DOOLITTLE read, as follows:

Mr. Senator Hunter, in his apeech, last fall, before the Breckinridge Democratic State Convention at Charlottesville, Virginia, said:

"When I first entered the federal councils, which was at the commencement of Mr. Van Buren's administration, the moral and poiitical status of the slavery question was very different rrom what it now is. Then the Southern men themselves, with but few exceptions, admitted slavery to be a moral evil, and palliated and excused it upon the plea of neceseity. Then there were few men of any party to be found in the non-slaveholding States who did not maintain both the constitutionality and evpediency of the anti slavery resolution, now generally known as the Wilmot proviso. Had any man at that day ventured the prediction that the Missouri restriction would ever be repealed, he would have been deemed a visionary and theorist of the wildest sort. What a revolution have we not witnessed in all this! The discussion and the contest on the slavery question have gone on ever since, so as to absorb almost entirely the American mind. In many respects the results of that discussion have not been adverse to us. Southern men no longer occupy a deprecatory attitude upon the question of negro slavery in this country. While they by no means pretend that slavery is a good condition of things, under any circumstances and in all countries, they do maintain that, under the relations that the two races stand to each other here, it is best for both that the inferior should be subjected to the superior The same opinion is extending even in the North, where it is entertained by many, although not generally accepted. As evidence, too, of the growing change on this subject of the public sentiment of the world, I may refer to the course of France and Great Britain in regard to the cooly and the African apprenticeship system introduced into their colonies. That they are thus running the slave trade in another form is rarely denied. It is not to be supposed that these governments are blind to the real nature of this cooly trade; and the arguments by which they defend it already afford an evidence of a growing change in their opinions upon slavery in general."

Mr. BAKER. I have caused this passage to be read, Mr. President, for one purpose. With the argument I have now nothing to do; with the opinion of the Senator from Virginia, that France and England are endeavoring to advance slavery in their own peculiar and pet way, I do not propose to deal; but I do present it to show that southern men have been always of the opinion of the fathers, that Congress had the power to restrict slavery in the Territories, because slavery was the creature of local law alone. That is all. I do not say it proves it. I am sufficiently in the habit of differing from the Senator from Virginia not to take what he may say as evidence always; but against the Senator from Louisiana——

Mr. HUNTER. I ask the Senator, does he say that he quoted that to show that I admitted that the Senators of the South believed there was power in Congress to restrict slavery in the Territories?

Mr. BAKER. Repeat, if you please.

Tr. HUNTER. Does he mean to say that he quoted that in order to show that I maintained that it was the opinion of southern men that there was a power in Congress to restrict slavery in the Territories?

Mr. BAKER. Not exactly; but I apprehend that I can ask the Senator two or three questions that will make him admit it right out now. [Laughter.]

Mr. HUNTER. All I can say is, that I have never admitted it yet.

Mr. BAKER. And all I say, in answer to that, is, that it is never too late to do well. Now, I submit to gentlemen everywhere; I understand them to be in favor of establishing—I will not say establishing—protecting slavery in the Territories; I understand that that arises from the power of Congress to govern Territories. The Republicans generally admit the power to govern; and from that they argue the right to prohibit. I believe that, according to the latter phase of southern opinion—and it has many phases—the southern gentlemen admit the power of Congress to govern the Territories; and from thence they argue the power to establish, or, at least, to protect slavery; and when, now, with the new fit, many of them profess to be in favor of the Missouri compromise, I suppose it will not be denied that that means just this: Congress has the power to govern the Territories; and governing them, it may govern them upon slavery as upon every other subject; the Constitution takes it there; they may regulate and protect it there; and if they may do it upon all the Territories, they may refuse to do it upon part. Some of them say so, and some of them deny it; but, at any rate, they all say, in making the Missouri compromise line, that it is the power of prohibition on one side, and protection on the other. The distinguished Senator from Virginia does not deny that, as I understand him. The distinguished Senator from Louisiana has not, in former years, denied that, as I have understood him.

Mr. BENJAMIN. Do I understand the Senator from Oregon to say that I ever

admitted the power of Congress to exclude slaves from any portion of the public Territory?

Mr. BAKER. I will not say that I am quite certain that the distinguished Senator has so done; and if he says otherwise, of course I would cheerfully yield to the correction, if I had so said; but I may say that I do understand that gentlemen upon other side of the Chamber, at some period of their lives, in some of the phases of politics—when my friend was a Clay man; when my friend was a Whig; before the repeal of the Missouri compromise was proposed—at the time when most of us were singing hallelujahs to it, I should think it very strange if I could not prove that the gentleman was in favor of some line of separation between slavery and freedom.

Mr. BENJAMIM. Mr. President, I will answer the Senator so far as I am concerned, that I never have admitted any power in Congress to prohibit slavery in the Territories anywhere, upon any occasion, or at any time in my life that I can remember. I will further say to him: so far as the question is concerned about the desire of the South to extend the line—that the southern States, at the period of the acquisition of Territory from Mexico, proposed to extend that line—not upon the idea that Congress had the power to exclude slavery from any part of the Territory, but that the representatives af the southern States in both Houses consenting to that act, it would operate as an agreement or compact, not binding constitutionally, but binding upon the good faith of the people of all parts of the Confederacy. In that light they proposed to settle the question forever. They never did admit that Congress had the power, constitutionally, that I am aware of.

Mr. BAKER. When the Senator says that he himself never did it, I am by no means disposed to dispute it, and particularly so, as I believe I have not asserted it; but the Senator does now say that the Southern people were in favor of the Missouri compromise—

Mr. BENJAMIN. Excuse me.

Mr. BAKER. I think that is what the Senator said.

Mr. BENJAMIN. That the southern people were in favor, at the time of the aquisition of the new Territory from Mexico, of extending the line to the Pacific ocean, and leaving it undisturbed; as a matter of compact, not a matter of constitu-tional power. That was refused by the North.

Mr. BAKER. Well, Mr. President, at a proper time and on a proper occasion, I think I could show the Senator that it would be very dffiicult to establish the proposition that anybody has a right to do by compact what will violate the Constitution. That is the sum total now of all he is saying.

Mr. BENJAMIN. Does the Senator deny that a State has a right to abandon any privilege accorded to it by the Constitution, if it does not choose to exercise it?

Mr. BAKER. No. sir; but this is what I do say: that if you, the Senator from Louisiana, do, in your conscience, believe that an act of Congress to prohibit slavery in the Territory of the United States, or in any part or parcel thereof, is in violation of the Constitution of the United States, and in derogation of the rights either of the States or the people—if, in your heart and conscience, you really do believe that, you are false and perjured when you do it. Let me add, as the language is strong, that I am quite sure as I live, that, with that view, the Senator never would do it.

Mr. BENJAMIN. Mr. President, I endeavored to make my propositions as plain as I know how to do it. I say that, under the Constitution, Congress has no power to exclude the southern States from participation in the Territory, from going there with their slave property, and there finding protection. I say that, notwithstanding the absence of all that congressional power, it is perfectly competent and in accordance with the spirit of the Constitution, for southern members even by way of an act of Congress, to pledge the honor of their States that they will not avail themselves of the privilege of going into that part of the territory that is north of a particular line, and of proposing that to the people of the north as a settlement of a disputed question—not because the act of Congress would thereby be binding, under the Constitution itself, but because it would be good and authentic evidence to the people of the North of an agreemnt the people of the South not to insist on that part of the Constitution which gave that right.

Mr. BAKER. Mr. President, I do this time certainly clearly understand the distinguished Senator from Louisiana, and yet I do not see anything fairly in reply to what I have urged upon him. Now, he tells me that the southern people have agreed that slavery may be prohibited. How? Sir, in passing the Missouri com-

pomise bill, they did not merely agree to do it—the act of Congress is not a mere evidence to be used in a court of honor that the people of Louisiana will not interfere with the bargain. That is not it; but the act of Congress is a positive law, made under the sanction of an oath, in the light of the consciences of the men who agreed to it; and I ask him in all fairness and honor, if he or I to-day vote in this Senate Chamber to prohibit slavery in a certain Territory, whether, if we believe that we have no right under the Constitution to do that, we do not violate both the Constitution and our oaths when we render that vote? I think that from this position there is no escape. When Mr. Clay gave that vote, he had no constitutional doubt. When the South urged it, and the North agreed to it, they who voted had no constitutional doubt; or if they had, it vanished before the clear light of reason and argument. The North, as it is said, accepted it reluctantly; at least they abided by it. When gentlemen destroyed it they ran after strange gods; and now when many of them propose to come back to it, they are offering a truer and more acceptable worship. But, sir, the point of the argument is not to be evaded by any pretense that it is a mere agreement in a court of honor to do that which they have no legal and constitutional right to do. Suppose a gentleman from Alabama comes up and says, "Sir, you, the Senator from Louisiana, have voted to prohibit me from taking my slaves into the territory north of 36° 30′; what do you mean by it; have you any right to do it?" "Oh no," the Senator says, "no right in the world; it is just a sort of legislative flourish, a compact between us and somebody else, that having done it, we will never take it back; it is the exercise of a right which theoretically we do not claim; we have just done it—we do not exactly know why in point of law, but we have done it because we hope, having done it, nobody will undo it." What will the strict constructionists on the other side say to that? What words will they put in my mouth?

I do not think that the argument can be defended other than upon the ground assumed by a justice of the peace, well known to my distinguished friend from Illinois, [Mr. Douglas,] old Bolling Green, in answer to a little law advice that I gave him on one occasion when the Senator and I were both very young men, and (if he will excuse me for saying so) very poor lawyers. [Laughter.] Old Bolling Green, then a magistrate, came to me and said: "Baker, I want to know if I have jurisdiction in a case of slander." I put on a very important air; looked at him steadily—looked as wise as I could, and said to him: "Squire, you have no such authority; that is reserved to a court of general jurisdiction." "Well," said he, "think again; you have not read law very well, or very long; try it again; now, have I not jurisdiction; can I not do it?" "No," I said, "you cannot." Said he: "Try once more; now, cannot I take jurisdiction." "No, sir," said I, "you cannot; I know it; I have read the law from Blackstone to ——; well, I have read Blackstone, and I know you cannot do it." "Now, sir," said he, "I know I can; for, by Heaven, I have done it." [Laughter.] I understand, now, that the sum total of the answer which is made to my objection as to the constitutionality of the Missouri compromise touching the consciences of the gentlemen who proposed to pass it without power, is just the reply of my old friend Bolling Green. They say, "theoretically we have not the power; constitutionally we have not the power; but, by Heaven, we have done it." [Laughter.]

Well, sir, I do not assume to deal with them in a court of conscience. That is their matter. I do not pretend to discuss the propriety of making a solemn act of the Congress of the United States merely evidence in a court of honor, subject, as I think, to a demurrer to evidence at least. That is none of my business. What I am dealing with is this: if that be the opinion of Virginia, of Louisiana, of the entire South; if they have done it by their leaders, by their speeches; if they have lived by it; if, being a compact, it is an executed compact; if under it State after State has come into this Union, is it not too late for them to deny now that we are justified if we wish to adhere to that principle? Have they a right to come and say: "You are declaring slavery to be a creature of the local law, and we will justly dissolve the Union by revolution in consequence thereof?" That is the sole purpose for which I have read all these extracts; and I think, from the conclusion, that this is neither fair, nor just, nor right, nor constitutional. There is no escape.

But, sir, passing from that; the Senator from Louisiana, in the second item of the "dreary catalogue" which he recounts in his speech, says, in substance, that we attack slavery generally. Now, I am going to reply at some little length to that count in the indictment. I begin thus: if the gentleman means that, in violation of the

Constitution of the United States, we of the North or West, by any bill, resolution, or act, do in anywise interfere with the state and condition of slavery where it exists within the States of this Union, or any of them, by virtue of local law, by which alone it can be created, we deny it. We have offered no such interference: we claim no such power. Sir, as I remember the history, as early as 1790, a committee of the House of Representatives—composed, with one exception, of northern men—reported to that Congress a resolution, which you will find in the great speech of Mr. Webster upon this point, declaring that we have no right or power to interfere with slavery in the States. That resolution was adopted by a northern Congress—a body near two-thirds of whom were northern men; and I say that from that day to this, according to my recollection, and in my best judgment, and on my conscience, I do not know, nor do I believe, that Congress has attempted seriously to doubt practically that doctrine, or in anywise to interfere with the condition of slavery in the slave States. Upon that point I am subject to correction on either hand.

Mr. BENJAMIN. If the Senator will permit me, the charge is not that Congress does it, but that the States do it.

Mr. BAKER. Very well. I thank the gentleman; and with the directness which belongs to his character, and the courtesy which he can never forget, I shall be happy, if only to carry down the argument, whenever he sees a proper place, he will just direct my attention to the pith and marrow of the matter as he does now. Now, be it understood, on this given day of January, in the year of our Lord 1861, the great champion of the South upon this question gets up in his place in the Senate and admits that there is no ground of complaint that the Federal Government ever has attempted to interfere with the existence of slavery in the southern States. We will get that down upon the record, and I apprehend it will be quoted before this controversy is over again and again.

But it is said that the northern States, the western States, in other words, the free States do so interfere. Again we deny it. The fact is not so. The proof cannot be made. Why, sir, I might ask, in the first place, how can the States so interfere? Suppose Illinois—of which I desire to speak always with affectionate solicitude, and of which I can speak with considerable knowledge—were to violate all the opinions which she has manifested in her history, and desired to interfere with the existence of slavery in Virginia, how would she go about it? I have the profoundest respect for my friend as a lawyer; but I would like to know what bill he could frame by which Illinois could interfere with the existence of slavery in Virginia.

Mr. BENJAMIN. Mr. President, I will tell the Senator, not how they can do it by bill, but how they do it in acts. A body of men penetrated into the State of Virginia by force of arms, into a peaceful village at the dead hour of night, armed with means for the purpose of causing the slaves to rise against their masters, seized upon the public property of the United States, and murdered the inhabitants. A man was found in Massachusetts who, in public speeches, declared that he approved of that, and that the invasion was right; and the people of Massachusetts, by an enormous majority—the fact of that man's action placed before the people as a ground why he should be elected their Governor—elected him their Governor, indorsed the invasion of a sister State, indorsed the murder of the peaceful inhabitants of the State of Virginia. The people of Massachusetts, by the election of Andrews as their Governor, have indorsed the act of John Brown, have indorsed the invasion of a sister State, and the murder of its peaceful citizens at dead of night.

The people of Massachusetts in their collective capacity have done more. They have sent Senators upon this floor, whose only business has been, for year after year, to insult the people of the South; here, in this assembly of confederate embassadors, to cast slander and approbium upon them; to call them thieves, murderers, violators; charge them as being criminals of the blackest dye; and because the men who here represent Massachusetts did that, Massachusetts has sent them back to repeat the wrong. They have done that, and nothing else, since ever I have been in the Senate.

Mr. WILSON. Mr. President——

Mr. BAKER. Oh, never mind. Mr. President, I asked the gentleman from Louisiana to point out to me and to the Senate, how, if the State of Illinois were desirous to interfere with the existence of slavery in Virginia, it could be done. I leave to his cooler temper and his better taste to examine how he has answered me. Why, sir, he runs off into a disquisition upon John Brown, which would not dignify a stump. Now, I submit that that is not the point between us. I hold that his

answer is an acknowledgement that a free State cannot, as a State, interfere in any conceivable way with slavery in a slave State; and that being so, we advance another step. We agree now that Congress never have interfered, and that States never can.

But the gentleman says, (and I do not reply to it now on account of what he has said at this moment, but because it is another of the counts in the indictment,) that individuals in the northern States have interfered with slavery in the southern States. I believe that to be true; but being true, I ask, what then? Is that the chief ground of dissolution? Are you going to revolt for that? Will you plunge us into civil war for that? Is that all? Sir, let us examine it a little more closely. I pass, as unworthy the dignity of debate, the incidental attack which the Senator from Louisiana, has chosen to make upon the people of Massachusetts, upon the Governor of that great State, and upon the distinguished Senators from that State, who, in my judgment, are an honor on this floor or body. It is not my purpose — they would not intrust me with their defense; nor is it needful that I should make it anywhere. That is not within the scope and purpose of this debate; but it is within the scope and purpose of this debate to examine how much of truth there is in the general sweeping charge which the Senator has chosen to make, and how much justification in the fact, if the fact be true.

Sir, the people of the northern and western States are a free people. We have there various rights guarantied to us by our State constitutions, among the chiefest of which are liberty of thought and freedom of speech. We are an inquiring people; we are an investigating people; and we are, no doubt, very subject to the charge often brought against us, that we are a people of isms. Where there is perfect freedom of opinion, that must be the case in the nature of things. It is in the nature of the human mind itself. Laws will not restrain it. We cannot bind the human mind with fetters, nor can we limit it to modes of expression. It will think, and it will act, spite of all government, and beyond all law. It follows, as a consequence, that the people will not think alike; and, of course, as there cannot be two ways perfectly right upon any one subject, the people will not always think truly and wisely.

What, then? There are people in Massachusetts and in Illinois and in Oregon, who will not only violate the rights of the slave States, but the rights of the free. There are people in the North who will not only steal niggers but steal horses. There are people in the North who will not only try to burn down houses in the slave States, but who will be incendiary in the free States. It is the duty of the distinguished Senator from Louisiana and myself sometimes, as counsel, to defend such men. Nor do I know that such men or such defenses are confined to the North or to the West alone. I apprehend if a grateful procession of the knaves and rascals, who are indebted to the distinguished Senator from Louisiana for an escape from the penitentiary and the halter, were to surround him to-day, it would be difficult for even admiring friends to get near him to congratulate him upon the success of his efforts upon this floor. [Laughter.] When, therefore, he says that individuals—not States, not Congress—but individuals in the free States, do attack in their individual capacity the honor and dignity of the slave States, and do run off their niggers, and do steal their property, and do kidnap, and do various other things contrary to their duty as good citizens, I am inclined, while I regret it, to believe the whole of it.

Springing from that, and evidenced, as I think, by the excited enumeration which the distinguished Senator has chosen to make of the wrongs and crimes of the State of Massachusetts and her Senators; springing from that exaggerated mode of thought and expression, as to the free States, arises the spirit of the count in the indictment against the whole of us. Now, I beg leave to say to the honorable Senator, that the desire to interfere with the rights of slavery in the slave States is not the desire of the northern people. It is not the desire of the people of Oregon, I know; it is not the desire of the people of California, I am sure; it is not the desire of the people of Illinois; and I may say more, that in all my association with the Republican party, I have yet to find among them, from their chiefs down to their humblest private, one man who proposes to interfere with the existence of slavery in the slave States by force, by legislation, or by congressional action. I have known no such man in all my short experience, nor do I believe that the Senator from Louisiana can point out any such man.

Mr. BENJAMIN. If the Senator merely desires me to answer him, I will tell him exactly what I said the other day: that the belief of the South is, and I admit I share it, that without intending to violate the letter of the Constitution by going into

States for the purpose of forcibly emancipating slaves, it is the desire of the whol Republican party to close up the southern States wtth a cordon of free States for the avowed purpose of forcing the South to emancipate them.

Mr. BAKER. Very well, sir. See how gloriously we advance step by step. We abandon now the charge that Congress does it; we abandon now the charge that States do it; we abandon now the charge that the individual members of the northern and western communities as a body desire to interfere with slavery contrary to law; to violate any existing right in the slave States; but we insist tenaciously and pertinaciously on our fourth count in the indictment; and it is this—

Mr. BENJAMIN. The Senator, I trust, does not desire to misrepresent what I said.

Mr. BAKER. I do not, sir.

Mr. BENJAMIN. I am confident that he does not. I understood the Senator to ask me, in relation to the Republican party, what proof I had of their desire to destroy slavery in the States. I gave it to him. I did not say that independently of that, there were not other attacks upon southern slavery. I just this moment referred him to the direct attack of the State of Massachusetts—the State as a State. Independently of that, by the further exemplification of the State of Massachusetts, I will refer him to the fact that her Legislature indorsed the vituperations of her Senator on this floor, by an enormous majority, and made that a State act; and furthermore, that she passed a law in violation of the rights of southern slaveholders, and all her eminent legal men are now urging the State to repeal the law as a gross outrage upon the constitutional rights of the South.

Mr. BAKER. Why, Mr. President, in a State where all her eminent legal men are desirous to rectify a wrong, I do not think, if the Senator will wait a little while, there can be any very great danger. Our profession is a very powerful one; and I have never known a State in which we all agree upon a legal proposition that we could not induce her to agree to it too. That is a mere answer in passing.

I insist, however—I know it is not quite pleasing to my friend, and I regret that it is not so—that I have brought him down to a clear statement by way of abandonment of three or four of the specifications. It is now true that the great ground of complaint has narrowed itself down to this: that, as a people, we desire to circle the slave States with a cordon of free States, and thereby destroy the institution of slavery; to treat it like the scorpion girt by fire. I take that to be an abandonment of the main counts in the indictment, unless that be considered one of them. Now, I approach that question: first, if we, a free people, really, in our hearts and consciences, believing that freedom is better for everybody than slavery, do desire the advance of free sentiments, and do endeavor to assist that advance in a constitutional, legal way, is that, I ask him, ground of separation?

Mr. BENJAMIN. I say, yes; decidedly.

Mr. BAKER. That is well. And I say just as decidedly, and perhaps more emphatically, no! And I will proceed to tell him why. The argument is a little more discursive to-day than yesterday, but perhaps not less instructive. Supposing that circling slavery with a cordon of free States were a cause of separation, and therefore war with us; is it not just as much so with anybody else? It is no greater crime for a Massachusetts man or an Oregon man to circle, to girdle, and thereby kill slavery, than for a Frenchman, or an Englishman, or a Mexican. It is as much a cause of war against France, or England, or Mexico, as against us.

Again, sir: how are you going to help it? How can we help it? Circle slavery with a cordon of free States! Why, if I read history and observe geography rightly, it is so girdled now. Which way can slavery extend itself that it does not encroach upon the soil of freedom? Has the Senator thought of that? It cannot go North, though it is trying very hard. It cannot go into Kansas, though it made a convulsive effort, mistaking a spasm for strength. It cannot go South, because, amid the degradation and civil war and peonage of Mexico, if there be one thing under Heaven they hate worse than another, it is African slavery. It cannot reach the islands of the sea, for they are under the shadow of flags that guard their shores against such infectious approach. It is circled; I will not say girdled. I recollect the figure, familiar to us all, by which he intimates that that which is girdled will die. Therefore, I do not say girdled; I say circled, inclosed, surrounded; I may say hedged in; nay, more, I may say—where is the Senator from New York, [Mr. SEWARD?] he is a prophet, and I will not predict; but, if I were not warned by his example and his prediction as to the "irrepressible conflict," I might say that, being so hedged, circled,

guarded, encompassed, it will some day—it may be infinitely far distant, so far as mortal eye can see—but it will be some day lost and absorbed in the superior blaze of freedom. And, sir, that would be the case, just as much as it is now, if there were no northern free States. What harm do I, in Illinois or Oregon, to the Senator from Louisiana? Where can his slavery go, that it is not now, unless it be in this disputed Territory of New Mexico? Where else? If it go anywhere else, it will go incursive, aggressive upon freedom. It will go by invading the rights of a nation that is inferior and that desires to be friendly. It will go in defiance of the wish and will, and hope and tear and prayer of the whole civilized world. It will go in defiance of the hopes of civilized humanity all over the world. The Senator will not deny that. Therefore it is that it appears to me idle—and I had almost said wicked—to attempt to plunge this country into civil war, upon the pretense that we are endeavoring to to circle your institution, when, if we had no such wish or desire in the world, it is circled by destiny, by Providence, and by human opinion everywhere.

I will press the Senator from Louisiana a little further. We of the northern and western States—and it is the conplaint that our Abolitionists make against us—are the only allies you have got in the world. It is to us (and I speak it to you with affectionate kindness) that, in the hour of your extremest trial, you are to look for sympathy, for succor, for support. You have with us what you call a league; what you call a compact; what we call a united Government, by which we are bound, in some points of view, to recognize your institution, and by that to afford you support in the hour of your danger. Why, sir, if your slaves revolt; if there be among you domestic insurrection—God grant the hour may never come!—we are called upon by our constitutional obligations to march to your support; and, though there be nothing worse than to fight in a servile war, unless it be to suffer in one, we of the North, when that hour shall arrive, will march to sustain you, our brethren, our kindred, the people of our race, with all our power. It is a painful subject to refer to, and I pass it with a single remark.

Again: by the Constitution of the United States we are required to protect you against the escape of your slaves through our territories, to return them, and to return them in violation of common law and against the principles of international relations acknowledged by the whole civilized world. Would France do that? Would Mexico do that? Would England do that? Would the Czar of Russia do that? No, sir. It is to us, and to us alone, that you are to look for whatever of safety, of succor, of sympathy, you can find in the whole world, and—I had well nigh said—in the whole universe.

There is, then, no ground of complaint against us, even if all you say be true, that we are surrounding you by a girdle, a cordon, a circle of free States. Why, you seem to me to have the same notion with an old man in my country who was complaining that he was not rich enough. He was a farmer. He said he would be perfectly happy if he only had all the land that joined him. [Laughter.] It appears to me that the complaint of the honorable Senator is, that slavery does not extend everywhere; without border, or limit, or girdle, or circle in the world.

Again: does the Senator remember, when he asks us to restrain this progress of circling the slave States by the settlement of free communities upon their borders, that he is asking us to do what we have no power to do by our system of government, or by our Constitution? What is the process? When slavery is circled, it is circled by the elastic, expansive power of free labor. California so circled it; Oregon so circled it. Make Arizona a Territory to-day; steal Sonora to-morrow; and there free labor will so circle it, spite of laws, spite of government.

Now, why should the Senator from Louisiana propose to dissolve with us because this is so? I would ask gentlemen on the other side: will it be any the less so if you dissolve with us? Will not our young men take their axes upon their shoulders, or their ox-whips in their hands, and drive their teams out in the wilderness upon the very edge and border of civilization, adventurous, fearless, elastic, expansive? Do you not know that we will gear up the team, put the wife and children in the wagon, and be half way there—nay, that we will seize and possess the goodly land while you are hallooing "Pompey, Jube, Scipio, get ready and come?" That, sir—the peaceful progress of settlement and civilization—must be the real substantial ground of complaint, if there be any.

The Senator talks about John Brown; and he says the people of Massachusetts approved of John Brown. Let us rise to a higher view. Let the wing of our genius plume itself for a nobler flight than that, here—talking of peace and war in

this Senate Chamber. Let us not confine ourselves to the mere bitterness of partisan discussion. John Brown is in his grave. We, as a party, do not condemn the act of Virginia. We, as a party, do condemn his act. We acknowledge it was in violation of the Constitution and of your law. We regret it. It found no sanction in the public mind. If there were men who were sorry, who admired his courage, who sympathized with what they believed to be the integrity of his purpose, though it were a very dangerous, and, and in my judgment, a very unworthy purpose, will you dissolve for that? Why, sir, all that line of complaint—I may add all the argument based upon that complaint—is akin to the very peculiar remark made by the Senator from Texas, [Mr. WIGFALL.] He turned to us the other day and condescended to give us a list of the conditions upon which they would be graciously pleased to receive our capitulation. I do not remember it all. It was speculative, fanciful; but there were some things in it kindred to the complaint and the argument of the Senator from Louisiana. For instance, he said to us: "Your representative men: you SEWARDS and SUMNERS and HALES and WILSONS, go home and instruct your people to repeal your personal liberty bills; abolish your Abolition societies; stop your presses, and do various things kindred to these, and when you have done that, come back to us and tell us you have done it, and we will think about it." Well now, sir, I think the mode of expresssion was extravagant. It was hardly what I had expected—it was the first speech I heard here—to hear in the Senate of the United States. The sentiment that prompts it is not unlike that of the Senator from Louisiana. He says: "Do not girdle us; do not circle us; do not inclose us; do not migrate so as to surround us." That is our right. It would be our right if you were not in common union with us. It would be your necessity and your misfortune, if there were no free States, no North and no West. Then, sir, as for destroying the liberty of our press, as for abolishing societies formed to promote the abolition of slavery, or for any other purpose in the world, do Senators think when they ask us to do that? Sir, I ask them how? Whether they do it in their own States, it is not for me to determine. Whether the severe necessities of their condition will allow free and unrestrained discussion, it is not for me now to inquire. But I may inquire how do they expect us to abolish the right of free speec and of free discussion? It is a very unpleasant right sometimes, I know. Looking around upon distinguished men here, I suspect that I do not see one of them that has not suffered excessively by an abuse of that power. I think I could read in the biography of every Senator near me, as given by his enemies, things very far from complimentary; and I suspect they make a good many people believe them.

I understand, sir, that wherever free government is, and wherever, as a consequence, free speech follows, there things may be said and will be said very unpleasant to hear, and very improper to be believed; and I think that I could show in commentaries in England, even in Holland, and even in Belgium to-day, or wherever else besides here, free speech is allowed, reflections upon Government, and upon the personal character of the rulers, as offensive to their tastes and their opinions as any the Senator from Texas or the Senator from Louisiana could point out uttered in any State of the North and West against them. The abuse is, if you like, an evil, incident to free government; and how and why do you ask us to obviate in your case what we cannot remove in our own? Will you really make war upon us, will you really separate from us, because we cannot alter the model and frame of our free Government for which your fathers and ours fought side by side? You will not do that.

Mr. President, do gentlemen propose to us seriously that we shall stop the right of free discussion; that we shall limit the free press; that we shall restrain the expression of free opinion everywhere on all subjects and at all times? Why, sir, in our land, if there be any base enough, unreflecting enough, to blaspheme the Maker that created him, or the Saviour thar died for him, we have no power to stop him. If there be the most bitter, unjust, and vehement denunciation upon all the principles of morality and goodness, on which human society is based, and on which it may most securely stand, we have, for great and overruling reasons connected with liberty itself, no power to restrain it. Private character, public service, individual relations—neither these, nor age, nor sex, can be in the nature of our Government exempt from that liability to attack. And, sir, shall gentlemen complain that slavery shall not be made, and is not made, an exception to that general rule? You did that when you made what you call a compact with us. You were then emerging out of the war of Independence. Your fathers had fought for that right, and more

than that, they had declared that the violation of that right was one of the great causes which impelled them to the separation.

I submit these thoughts to gentlemen on the other side, in the candid hope that they will see at once that the attempt to require us to do for them what we cannot do for ourselves is unjust and cruel in the highest degree. Sir, the liberty of the press is the highest safeguard to all free government. Ours could not exist without it. It is with us, nay, with all men, like a great exulting and abounding river. It is fed by the dews of heaven, which distil their sweetest drops to form it. It gushes from the rill as it breaks from the deep caverns of the earth. It is fed by a thousand affluents, that dash from the mountain top to separate again into a thousand bounteous and irrigating rills around. On its broad bosom it bears a thousand barks. There Genius spreads its purple sail. There Poetry dips its silver oar. There Art, Invention, Discovery, Science, Morality, Religion, may safely and securely float. It wanders through every land. It is a genial, cordial source of thought and inspiration, where ever it touches, whatever it surrounds. Sir, upon its borders, there grows every flower of grace and every fruit of truth. I am not here to deny that that river sometimes oversteps its bounds. I am not here to deny that that stream sometimes becomes a dangerous torrent, and destroys towns and cities upon its bank; but I am here to say that, without it, civilization, humanity, government, all that makes society itself, would disappear, and the world would return to its ancient barbarism.—Sir, if that were to be possible, or so thought for a moment, the fine conception of the great poet would be realized. If that were to be possible, though but for a moment, civilization itself would roll the wheels of its car backward for two thousand years. Sir, if that were so, it would be true that,

> "As one by one in dread Medea's train,
> Star after star fades off th' etherial plain,
> Thus at her felt approach and secret might,
> Art after art goes out, and all is night.
> Philosophy, that leaned on Heaven before,
> Sinks to her second cause, and is no more.
> Religion, blushing, veils her sacred fires,
> And unawares morality expires."

Sir, we will not risk thees consequences, even for slavery; we will not risk these consequences even for union; we will not risk these consequences to avoid that civil war with which you threaten us; that war which you announce as deadly, and which you declare to be inevitable.

Sir, while I say that it is quite well that I should announce, at this moment, my opinions as to what we might do, I shall enter into no detail. I shall endeavor to bind nobody else. I shall express my own convictions at the moment, subject, of course, to all the changes that events and circumstances hereafter to transpire may justify. I will never yield to the idea that the great Government of this country shall protect slavery in any Territory now ours, or hereafter to be acquired. It is, in my opinion, a great principle of free government, not to be surrendered. It is, in my judgment, the object of the great battle which we have fought, and which we have won. It is, in my poor opinion, the point upon which there is concord and agreement between the great masses of the North, who may agree in no other political opinion whatever. Be he Republican, or Democrat, or Douglas man, or Lincoln man; be he from the North, or the West, from Oregon, or from Maine, in my judgment, nine tenths of the entire population of the North and West are devoted, in the very depths of their hearts, to the great constitutional idea that freedom is the rule, that slavery is the exception, that it ought not to be extended by virtue of the powers of the Government of the United States; and, come weal, come woe, it never shall be.

But, sir, I add one other thing. When you talk to me about compromise or concession, I am not sure that I always understand you. Do you mean that I am to give up my convictions of right? Armies cannot compel that in the breast of a free people. Do you mean that I am to concede the benefits of the political struggle through which we have passed, considered politically, only? You are too just and too generous to ask that. Do you mean that we are to deny the great principle upon which our political action has been based? You know we cannot. But if you mean, by compromise and concession, to ask us to see whether we have not been hasty, angry, passionate, excited, and in many respects violated your feelings, your character, your right of property, we will look; and, as I said yesterday, if we have, we will undo it. Allew me to say again, if there be any lawyer or any court that will advise us that our laws are unconstitutional, we will repeal them. Such

is my opinion. Even if our own courts do not believe so and yours do—I say yours, because I do speak now of a supreme court, not subordinate, but acquiescent—if that court shall declare these laws unconstitutional in any particular, we will yield.

Now as to territory. I will not yield one inch to secession; but there are things that I will yield, and there are things to which I will yield. It is somewhere told—and the fine reading of my friend from Louisiana will enable him to tell me where—that when Harrold of England received a messenger from a brother, with whom he was at variance, to inquire on what terms reconciliation and peace could be effected between brothers, he replied in a gallant and generous spirit, in a few words, "The terms I offer are the affection of a brother, and the earldom of Northumberland;" "And," said the envoy, as he marched up the hall amid the warriors that graced the state of the king, "if Yosti, thy brother, agree to this, what terms will you allow to his ally and friend, Hadrada, the giant?" "We will allow," said Harrold, "to Hadrada, the giant, seven feet of English ground, and if he be as they say, a giant, some few inches more:" and as he spake, the hall rang with acclamation.

Sir, in that spirit I speak. I follow, at an humble distance, the ideas and the words of Clay, illustrious, to be venerated, and honored, and remembered forever. Upon this floor, in 1850, he said, in reference to a threat of secession:

"Now, Mr. President, I stand here in my place, meaning to be unawed by any threats, whether they come from men, living or dead, that arms should be raised against the individuals or from States. I should deplore as much as any authority of the Union, either by individuals or by States. But, after all that has occurred, if any one State, or a portion of the people of any State, choose to place themselves in military array against the government of the Union, *I am for trying the strength of the government.* I am for ascertaining whether we have a government or not—practical efficient, capable of maintaining its authority, and of upholding the powers and interests which belong to a government. Nor, sir, am I to be alarmed or dissuaded from any such course by intimations of the spilling of blood. *If blood is to be spilled, by whose fault is it?* Upon the supposition, I maintain, it will be the fault of those who choose to raise the standard of disunion, and endeavor to prostrate this government; and, sir, when that is done, so long as it pleases God to give me a voice to express my sentiments, or an arm, weak and enfeebled as it may be by age, that voice and that arm will be on the side of my country for the support of the general authority, and for maintenance of the powers of this Union."

He said, I say, that I will yield no inch, no word, to the threat of secession, unconstitutional, revolutionary, dangerous, unwise, at variance with the heart and the hope of all mankind, save themselves. To that I yield nothing; but if States loyal to the Constitution, if people magnanimous and just, desiring a return of fraternal feeling, shall come to us and ask for peace, for permanent, enduring peace and affection, and say, "What will you grant?" I say to them, "Ask all that a gentleman ought to propose; and I will yield all that a gentleman ought to offer." Nay, more; if you are galled because we claim the right to prohibit slavery in territory now free, or in any Territory which acknowledges our jurisdiction, we will evade—I speak but for myself—I will aid in evading that question; I will agree to make it all States, and let the people decide at once. I will agree to place them in that condition where the prohibition of slavery will never be necessary to justify ourselves to our consciences or to our constituents. I will agree to anything which is not to force upon me the necessity of protecting slavery in the name of freedom. To that I never can and never will yield.

Now, Mr. President, I trust I say that in no spirit of unkindness. My friend from Louisiana, in his count—his hypothetical count—against us, supposes a case. He says: "If you were to refuse South Carolina her two Senatorships; if you were to allow her but one Senator, what then? Revolution." He says: "What if a northern President, just elected, should come in and give all the offices to northern men, eating out the substance of us of the South; what then?" Well, I answer to that: "Wait, and do not dissolve the Union upon a hypothesis." I might tell my friend from Louisiana that, after all, this thing of not having office is not so very hard to bear. We Whigs tried it a long time; we Republicans have experienced it very often. I have been for nearly thirty years a man, and have never been able, except for a very, very few months, during all that time, to have my slightest wish as to the General Government gratified, even to the appointment of a tide-waiter. I have been, so far as the affairs of the General Government are concerned, as thoroughly disfranchised as if I were a Chinese or a Hottentot. What little of position or of place I have acquired, has been by the generous confidence of my own State; but I have been tabooed—not I alone, but we Whigs, we Republicans, have been tabooed by the General Government, I will not say vindictively, but, I will certainly say, uniformly. It is not so bad to take as you might suppose; it is nothing when you get use to it. [Laughter.] We have not proposed to dissolve the Union for that. Sir, we have never allowed the flame of our loyalty for one moment to fade because that

was so. We have loved the Union all the better the worse we were governed in it, and we will continue to do so when we are beaten, as we shall sometimes be to the end of the chapter.

I ask the distinguished gentleman from Louisiana, does it not look—I will not say that it is that way—but does it not look as if you cannot bear the mortification of a little defeat? You have had all the offices, all the honors—the President on his throne, the dignity of this Chamber, the power of the House of Representatives, the acquiescence of the Supreme Court, a long array of foreign ministers, Cabinet officers—everything that can grace your state and form your procession; and most of you have had them ever since you were children; and now, when according to the will of the people, constitutionally expressed, you are likely to lose one branch o the Government for a brief season, and as many of you believe, even if you remain with us, but for a very brief season, you propose to dissolve this Government and inaugurate civil war. Why, sir, as the distinguished gentleman from Tennessee [Mr. JOHNSON] has said so well, in a speech in which there are so many things with which I agree, that I grieve there should be so many others in which I cannot agree—a speech Jacksonian in its tone, often Websterian in its argument—as he has said, and well said, even in the case of the President, what can he do without you; you have a majority upon this floor; you can check him in his power of appointment; you can compel him to select good men. Will he touch slavery; will his Cabinet; will you let him? Who is to be hurt? A gentleman from Georgia said the other day that the Federal Government might comply with all the requisitions of the Constitution, and yet in ten years slavery cease to exist. How?

[At this point, a chair occupied by Mr. MASON, in the area in front of the Secretary's desk, owing to the frail condition of its supporters, gave way, precipitating its occupant to the floor.]

The incident before me, Mr. President, is not the only case where a fall will succeed dissolution. [Laughter.]

Sir, I am loth to believe that gentlemen are really in earnest in supposing, in the case before me, in believing that if men will not serve in the South, and they are appointed from the North because you will not serve there, that is cause of separation. When we were engaged ten years ago, as I left this coast, in compromise, as some people say we are now, I heard somebody say, "Oh, never mind, never mind; only give me a toll of a dollar apiece on all men of the South who will come over the Potomac to get office, and I would be a rich man." I admit the sentiment is very different now in some of the southern States, perhaps in all. I will say another thing: the sentiment to hold office now among loyal men at the South is not for the mere sake of office; it is a higher hope and a holier purpose; they come now, when they do come, or as they shall come, for the Union, for good government, for constitutional government, for peace, for glory, and for the immortal renown of their country. Amid all the threats of dissolution, amid all the croakings and predictions of evil, when the gentleman gets up inflamed by the momentary inspiration, and declares that there will be civil war, and when, while with one breath he says there will be civil war, in the next as he concludes, in an expression full of pathos, he says, "Let us depart in peace," "crying peace, peace, when there is no peace"—amid all this, I have great faith yet in the loyalty of the people of the South to the Union. I see around me to-day, on every hand, that the clouds are breaking away. I have great—I had well nigh said unshaken—confidence in right, in truth, and in duty. I see men of every shade of opinion upon other subjects, agreeing in this one thing: that in secession there is danger and death. I see from "Old Chippewa," from General Wool, from men of their high character, of their great age, of their proud career, of their enlarged patriotism, down to the lower ranks of men who love the country and venerate the Constitution—I see and I hear everywhere expressions that even yet fill the patriot heart with hope, and I am not without hope that, when there is delay, when time is allowed to the feverish sentiment to subside and for returning reason to resume its place, trusted to the people of this whole Union, the Constitution of the Union will remain safe, unshaken forever; yes, sir, until,

> "Wrapt in flames the worlds of ether glow,
> And Heaven's last thunder shakes the world below."

Sir, as I approach a close, I am reminded that the honorable Senator from Louisiana has said, in a tone which I by no means admired, "Now, gentlemen of the North, a State has seceded; you must either acknowledge her independence, or you must make war." To that we reply: we will take no counsel of our opponents; we will

not acknowledge her independence. They say we cannot make war against the State; and the gentleman undertakes to ridicule the distinction which we make between a State and individuals. Sir, it was a distinction that Mr. Madison well understood; it was a distinction that General Jackson was very well determined to recognize, it was the distinction which was made in the whole argument when the Constitution was formed; and I may say here and now, that all the arguments adduced by the gentleman from Elliot's Debates on the subject of the formation of the Constitution, were arguments addressed against the propriety or wisdom of giving, under the old patched-up Confederation, power to the Government to compel States, because they could not; they did not dare to do it, for they did not choose to confound the innocent with the guilty, and make war on some portion of unoffending people because others were guilty; and therefore, among other reasons, the new Government was formed a Union, "a more perfect Union," by one people. That is the answer to the whole argument.

Now, sir, let us examine for a minute this idea that we cannot make war. First, we do not propose to do it. Does any gentleman on this side of the Chamber propose to declare war against South Carolina? Did you ever hear us suggest such a thing? You talk to us about coercion; many of you talk to us as if you desired us to attempt it. It would not be very strange if a Government, and hitherto a great Government, were to coerce obedience to her law upon the part of those who were subject to her jurisdiction. No great cause of complaint in that, certainly. "But," says the gentleman, "these persons offending against your law are a sovereign State; you cannot make war upon her;" and, following ont with the acuteness of a lawyer what he supposes to be the *modus operandi* he asks: "what will you do if you will not acknowledge her independence, and you do not make war; how will you collect your revenue?" And he goes on to show, very conclusively to his own mind, that we cannot. He shows us how a skillful lawyer, step by step, will interpose exception, motion, demurrer, rejoinder, and surrejoinder, from the beginning to the end of the legal chapter; and he says, with an air of triumph, which I thought did not well become a gentleman that is yet (may he remain so always) a Senator from a sovereign State, upon the floor of this Chamber; he says, with an air of triumph: "it is nonsense; you cannot do it; you will not acknowledge her; you will not declare war; you cannot collect your revenue." Sir, if that is the case to-day, it has been so for seventy years; we have been at the mercy of anybody and everybody who might choose to flout us. Is that true? Are we a Government? Have we power to execute our laws? The gentleman threatens us with the consequences; and he says if we attempt it, there will be all sorts of legal delays interposed, and when that is done, there will be a mob; a great Government will be kicked out of existence by the tumultuous and vulgar feet of a mob, and he seems to rejoice at it. If we do not do it, he says, "why do you not advance?" He puts me somewhat in mind of a lawyer—and belonging to that honorable profession myself, he will pardon me for alluding to it—in the play of London Assurance, I think, who gets into a controversy with Cool, insults him, and says, when Cool does not kick him, that "he is a low, underbred fellow; he cannot afford the luxury of kicking me: he knows he would have to pay for it." [Laughter.] Why, Mr. President, against the legal objections to collecting the revenue in a case where South Carolina revolts, and individuals refuse to pay duties, against the lawyership of my friend from Louisiana, I will put another lawyer, General Jackson, a man of whom Mr. Webster said, that when he put his foot out, he never took it back; and if the gentleman wants a solution of the difficulties as to the manner in which the revenue is to be collected near the sovereign State of South Carolina, when she is in a condition of revolt or revolution, I will show him what General Jackson thought, and ordered to be done, when South Carolina revolted once before. I will read, or my distinguished friend, who sits near me, will read for me, the instructions of General Jackson as to the mode of collecting the revenue when South Carolina was preparing, by ordinance of nullification, to refuse to pay it.

Mr. DOOLITTLE read, as follows, from President Jackson's instructions to the collector at Charleston, of the 6th of November, 1832:

"Upon the supposition that the measures of the convention, or the acts of the Legislature, may consist, in part at least, in declaring the laws of the United States imposing duties unconstitutional, and null and void, and in forbidding their execution, and the collection of the duties within the State of South Carolina, you will, immediately after it shall be formally announced, resort to all the means provided by the laws, and particularly by the act of the 2d of March, 1799, to counteract the measures which may be adopted to give effect to that declaration.

"For this purpose you will consider yourself authorized to employ the revenue cutters which may

be within your district, and provide as many boats, and employ as many inspectors as may be necessary for the execution of the law, and for the purposes of the act already referred to. You will, moreover, cause a sufficient number of officers of cutters and inspectors to be placed on board, and in charge of every vessel arriving from a foreign port or place with goods, wares, or merchandise, as soon as practicable after her first coming within your district, and direct them to anchor her in some safe place within the harbor, where she may be secure from any act of violence, and from any unauthorized attempt to discharge her cargo before a a compliance with the laws; and they will remain on board of her at such place until the reports and entries required by law shall be made, both of vessel and cargo, and the duties paid or secured to be paid to your satisfaction, and until the regular permit shall be granted for landing the cargo; and it will be your duty, against any forcible attempt, to retain and defend the custody of said vessel by the aid of the officers of the customs, inspectors, and officers of the cutters, until the requisitions of the law shall be fully complied with; and in case of any attempt to remove her or her cargo from the custody of the officers of the customs, by the form of legal process from State tribunals, you will not yield the custody to such attempt; but will consult the law officer of the district, and employ such means as, under the peculiar circumstances, you may legally do, to resist such process, and prevent the removal of the vessel and cargo

"Should the entry of such vessel and cargo not be completed, and the duties paid, or secured to be paid by bond, or bonds with securities to your satisfaction, within the time limited by law, you will, at the expiration of that time, take possession of the cargo, and land and store the same at Castle Pinckney, or some other safe place; and in due time, if dutires are not paid, sell the same, according to the direction of the fifty-sixth section of the act of the 2d of March, 1799; and you are authorized to provide such stores as may be necessary for that purpose."

Mr. BAKER. Mr. President, there is my answer to the whole argument of inconvenience and impossibility on the part of the distinguished Senator from Louisiana. There is the manner, allowing all the ingenuity he can claim for his plan of defeat; there is the way in which the Old Hero cut the knot which some people cannot untie. And that is neither an acknowledgement of the independence of South Carolina, nor is it war. If, from that, collision come, let him bear the danger who provokes it.

Why, sir, there is nothing practical in this attempted idea that we cannot punish an individual, or that we cannot compel him to obey the law, because a sovereign State will undertake to succor him. There is no more sense in that, than there was in the excuse made by a celebrated commander-in-chief for profane swearing. The Duke of York, as you may remember, sir, was, during the reign of George III, his father, not only commander-in-chief of the British forces, but he was titular Bishop of Osnaburgh: that is, he had a little principality in Germany, which was originally related to the Church, and he was nominal bishop of that principality. At a tavern one day, while the commander-in-chief was swearing profanely, a gentleman of the Church of England felt it his duty to reprove him, and said to him, "Sir, I am astonished that a bishop should swear in the manner you do." "Sir," said he, "I want you to distinctly understand that I do not swear as the Bishop of Osnaburgh; I swear as the Duke of York, the commander-in-chief." "Ah, sir," said the old man, "when the Lord shall send the duke to hell, what will become of the bishop?" Now, if, in consequence of an attempt to violate the revenue laws, some persons should be hurt, I do not know that it will better their condition at all that South Carolina will stand as a stake to their back. I think that is the plain common sense answer to all that has been said on that subject.

Sir, as I leave that branch of it, indeed as I leave the subject altogether, I will simply say that I hope it will never come. Whatever moderation that great healer, time, whatever the mediation of those allied to these people in blood, in sympathy, in interest, may affect, let be done; but at last let the laws be maintained and the Union preserved. At whatever cost, by whatever constitutional process, through whatever of darkness or danger there may be, let us proceed in the broad luminous path of duty till danger's troubled night be passed and the star of peace returns.

As I take my leave upon a subject upon which I have detained you too long, I think in my own mind whether I shall add anything in my feeble way to the hopes, the prayers, the aspirations that are going forth daily for the perpetuity of the Union of these States. I ask myself, shall I add anything to that volume of invocation which is everywhere rising up to high Heaven, "spare us from the madness of disunion and civil war!" Sir, standing in this Chamber and speaking upon this subject, I cannot forget that I am standing in a place once occupied by one far, far mightier than I, the lachet of whose shoes I am not worthy to unloose. It was upon this subject of secession, of disunion, of discord, of civil war, that Webster uttered those immortal sentiments clothed in immortal words, married to the noblest expressions that ever fell from human lips, which alone would have made him memorable and remembered forever. Sir, I cannot improve upon those expressions. They were uttered nearly thirty years ago, in the face of what was imagined to be a great danger, then happily dissipated. They were uttered in the fullness of his genius, from the fullness of his heart. They have found echo since then in millions of homes;

and in foreign lands. They have been a text-book in schools. They have been an inspiration to public hope and to public liberty. As I close, I repeat them ; I adopt them. If in their presence I were to attemt to give utterance to any words of my own, I should feel that I ought to say,

> "And shall the lyre so long divine,
> Degenerate into hands like mine?"

Sir, I adopt the closing passages of that immortal speech ; they are my sentiments they are the sentiments of every man upon this side of the Chamber; I would fain believe they are the sentiments of every man upon this floor; I would fain believe that they are an inspiration, and will become a power throughout the length and breadth of this broad Confederacy ; that again the inspirations and hopes and prayers for the Union may rise like a perpetual hymn of hope and praise. But, sir, however this may be, these thoughts are mine ; these prayers are mine; and as, reverently and fondly, I utter them, I leave the discussion :

"When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union ; on States dissevered, discordant, belligerant ; on a land rent with civil feuds, *or drenched*, it may be, in fraternal blood! Let their last feeble and lingering glance rather behold the georgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or poluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as 'what is all this worth?' nor those other words of delusion and folly, 'Liberty first, and Union afterwards;' but everywhere, spread all over in characters of living light, blazing on all its ample folds as they float over the sea and over the land, and in every wind under the whole Heavens, that other sentiment, dear to every true American heart,' 'Liberty *and* Union, now and forever, one and inseparable'!"